

**SILVER LAKE WATER AND SEWER DISTRICT  
SNOHOMISH COUNTY, WASHINGTON  
RESOLUTION NO. 788**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SILVER LAKE WATER AND SEWER DISTRICT, SNOHOMISH COUNTY, WASHINGTON, AMENDING CHAPTER 3.15, ENTITLED. "VACATION, HOLIDAYS, AND LEAVE", OF THE DISTRICT CODE**

**WHEREAS**, the State of Washington adopted RCW 50A.05 which created the Washington Paid Family and Family Medical Leave Act (PFMLA); and

**WHEREAS**, the Washington State Department Employment Security Department (ESD) is authorized to make rules; and,

**WHEREAS**, the District has less than fifty (50) employees for the purposes of PFML employer size classification; and,

**WHEREAS**, the District desires to adopt rules under PFML on or before January 1, 2020; and,

**WHEREAS**, employees of the District has been collecting/paying PFML premiums since January 1, 2019; and,

**WHEREAS**, employees of the District will be eligible for PFML benefits starting January 1, 2020; and,

**WHEREAS**, the District wishes to clarify the difference between Personal Leave of Absence and Leave without Pay; now, therefore,

**BE IT RESOLVED** by the Board of Commissioners of the Silver Lake Water and Sewer District, Snohomish County, Washington as follows:

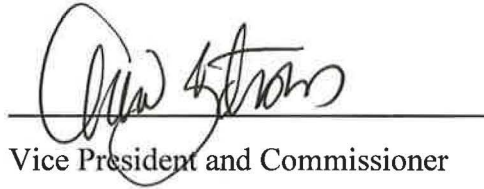
**Section 1:** Chapter 3.15 of the District's Code, entitled "Vacation, Holidays, and Leave", is hereby amended as set forth in Exhibit 1 attached hereto and incorporated by reference.

**Section 2:** This resolution shall be effective on January 1, 2020.

**ADOPTED** by the Board of Commissioners at a special open public meeting of the Silver Lake Water and Sewer District, Snohomish County, Washington this 24<sup>th</sup> day of December, 2019.

A handwritten signature in black ink, reading "Rael Keppler", written over a horizontal line.

President and Commissioner

A handwritten signature in black ink, reading "Mike Strom", written over a horizontal line.

Vice President and Commissioner

A handwritten signature in blue ink, reading "John Warner", written over a horizontal line.

Secretary and Commissioner

## **CERTIFICATION**

I, the undersigned, Secretary of the Board of Commissioners of Silver Lake Water and Sewer District, Snohomish County, Washington (the "District"), hereby certify as follows:

1. The attached copy of Resolution No. 788 (the "Resolution") is a full, true and correct copy of the Resolution duly adopted at a regular meeting of the Board of Commissioners of the District, held at the regular meeting place thereof on December 24, 2019, as that Resolution appears on the minute book of the District; and the Resolution will be in full force and effect immediately following its adoption; and

2. A quorum of the members of the Board of Commissioners was present throughout the meeting and a majority of those members present voted in the proper manner for the adoption of the Resolution.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 24<sup>th</sup> day of December, 2019.

SILVER LAKE WATER AND SEWER DISTRICT,  
SNOHOMISH COUNTY, WASHINGTON

A handwritten signature in black ink, appearing to read 'Anne Backstrom', is written over a horizontal line.

Anne Backstrom, Acting Secretary

## EXHIBIT 1 TO RESOLUTION NO. 788

Amended Subsections: **Article I – Sick Leave**  
3.15.060 Cash out

**Article III – Additional Leave Policies**  
3.15.170 Personal Leave of Absence  
3.15.180 Paid Family Medical Leave

Added Subsections: **Article III – Additional Leave Policies**  
3.15.230 Leave without pay  
3.15.240 Eligibility for the Monthly Stipend for Medical, Dental, Vision, HRAVEBA Benefits While on Unpaid Status

Deleted Subsections: **Article IV -Shared Leave Program**  
3.15.230 Employee leave donation policy.  
3.15.240 Eligibility to receive donated leave.  
3.15.250 Eligibility to donate leave.  
3.15.260 Administration of donated leave.

### **3.15.060 Cash out.**

(1) Upon retirement, an employee shall be paid 25 percent of the employee's accrued sick leave, at the employee's regular hourly rate of pay, up to a maximum cash out of 1,440 hours. For purposes of this policy, "retirement" means the employee must be a vested member and meet the eligibility criteria to retire from a Washington State-sponsored retirement plan, Public Employees' Retirement System (PERS) plans 1, 2, or 3. Plan 1 and 2 members under a Washington state-sponsored retirement plan with the Department of Retirement Systems (DRS) must immediately receive a monthly retirement plan payment or lump sum payment as allowed by the plan. Plan 3 members under a Washington state-sponsored retirement plan with DRS are not required to receive a retirement plan payment or lump sum payment, but must meet the retirement plan's eligibility criteria.

## **Article III. Additional Leave Policies**

### **3.15.170 Personal leave of absence.**

After completing a year of employment, an employee may apply, in writing, for personal leave. This leave is an approved absence without pay or benefits and is generally reserved for extraordinary, medical or emergency circumstances. The application shall state the reason for the personal leave request and the length of leave requested. Personal leave may be granted at the sole discretion of the district and shall not exceed three calendar months. No benefits shall accrue during the personal leave. An employee who fails to return to work at the end of the personal leave

or who accepts employment elsewhere during the leave without the district's consent will be considered to have resigned without the required notice. Employees on personal leave are responsible for paying all costs associated with maintaining their own, their spouse's, or domestic partner's, and their dependents' benefit plan.

### **3.15.180 Washington Paid Family Medical Leave**

The Washington State Employment Security Department (ESD) administers an insurance program under the Paid Family Medical Leave Act (PFMLA), pursuant to which eligible employees will qualify for partial wage replacement and leave benefits for covered family and medical reasons.

#### **Eligibility**

To be eligible for monetary leave benefits under the PFML, an employee must have worked 820 hours in Washington State (for any employer or combination of employers) during the year preceding a PFML claim. Employees are not eligible for job protection under the PFML because the District does not employ at least 50 employees.

Paid Family and Medical Leave (PFML) benefits, as applicable, may be granted for any of the following reasons:

#### **Medical Leave**

- The employee's own serious health condition (defined as an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as those terms are defined under the federal Family & Medical Leave Act) which causes the employee to be unable to work; provided, that an employee is ineligible for PFML if also receiving workers' compensation time loss benefits due to a workplace injury.

#### **Family Leave**

- To care for the employee's family member with a serious health condition.
- To care for the employee's child after birth or placement (by adoption or foster care) within 12 months of such birth/placement (in cases of adoption or foster care, the child must be under the age of 18 years).
- For a family member's qualifying military exigency as defined under the Federal Family & Medical Leave Act, 29 U.S.C. § 2612(a)(1)(E) and 29 C.F.R. § 825.126(b)(1) – (9).

For purposes of this policy, "family member" means the employee's: child (biological, adoptive, foster, step-child or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent); parent (including the same relationships as set forth for "child" above); spouse or registered domestic partner; spouse's or domestic partner's parent; grandparent; or sibling. "Registered domestic partner" shall have the same meaning as set forth in RCW 26.60.020.

## **Application for Benefits**

Applications for PFML benefits are made directly to the ESD. Employees should contact the ESD to commence the application process. The ESD will require the employee to complete its certification form, relating to the employee's eligibility and qualification for PMFL benefits.

## **Notice Requirements**

### Employee Notice

When the need for PFML is foreseeable (such as for planned medical procedures or the birth of a child), an employee must notify the District of the need for such leave at least 30 days in advance of such leave. If the need for PFML is not foreseeable, the employee must provide notice as soon as practicable.

The employee's notice must be in writing, must identify the family or medical nature of the leave and must contain the anticipated timing and duration of such leave. If an employee fails to provide this required notice, the ESD may deny benefits for the period of time during which the notice was insufficient.

Employees apply directly to the ESD for PFML monetary benefits. An employee must, within five (5) business days of employee's receipt of the same, notify the District of the ESD's determination with respect to such application for benefits, including the amount of any awarded monetary benefits. This is to assist the District's recordkeeping and administrative functions as well as to designate the employee's paid time off, if any, as supplemental to PFML benefits.

### District Notice

A workplace poster prepared by the ESD, outlining an employee's rights under the PFML, has been posted in the Headquarters Employee Notice Bulletin Board.

Additionally, when an employee is absent for more than seven (7) consecutive days for a reason known to be covered under the PFML, the District will provide the employee with a notice of rights, on such form prepared by the ESD. Such notice shall be provided the later of: (i) five (5) business days after the seventh day of absence; or (ii) five (5) business days after the District receives notice that the employee is absent for a covered reason.

## **Length of Leave**

Employees who qualify for PFML may take up to 12 weeks of family or medical leave per claim year, or a total of 16 weeks of combined family and medical leave. Additionally, female employees whose medical leave involves incapacity due to pregnancy are entitled to two (2) additional weeks of medical leave, for a combined total of 18 weeks of PFML.

PMFL may be taken intermittently, subject to the minimum claim requirement of eight (8) consecutive hours.

PMFL is tracked during the claim year, which is the 52-week period commencing on the Sunday of the week in which the employee meets the minimum claim requirement or in which the employee first takes leave due to the birth or placement of the employee's child (as applicable).

### **Waiting Period**

Monetary PFML benefits, with the exception of leave taken for the birth or placement of a child, are subject to a seven-day waiting period. This means that for the first seven (7) consecutive days of a PFML claim, the employee may take PFML but shall not receive any PFML monetary benefits. The waiting period for PFML monetary benefits commences on the Sunday of the week in which an employee claims a minimum of 8 consecutive hours of PFML. While no monetary PFML benefits are paid during the waiting period, the waiting period is credited against the duration of the employee's PFML.

### **Leave Benefits**

While on PFML, employees are entitled to monetary benefits through the state program. The ESD is responsible for calculating and paying the PFML monetary benefits.

District paid time off, including paid time off, sick leave, floating holidays or holidays is supplemental to PFML. This means that employees may use their District paid time off benefits (paid time off, sick leave, holidays and floating holidays) to supplement those benefits awarded to them under the PFML, without a correlating proration of their PFML monetary benefits. However, in order to ensure such supplementation, employees are responsible for promptly notifying the District that such paid time off is used in connection with a PFML application/award, so that the District may appropriately designate such time as supplemental to PFML benefits.

When an employee is on PFML and is not using District paid time off, the employee is considered to be in an "unpaid" status with the District, and no benefits shall accrue or be paid to the employee. District employees who are receiving PFML benefits, but are not eligible for District-provided health benefits, may apply for COBRA coverage.

### **Return to Work Certification**

The District may require a return to work certification from a health care provider before restoring the employee to work following PFML where the employee has taken leave for the employee's own serious health condition and the employee has been on leave for more than three (3) consecutive days.

Under certain circumstances (such as when it would be unduly burdensome to do so or where the circumstances surrounding District operations and/or the employee's position have changed) the District may deny job reinstatement to an employee returning from PFML.

### **3.15.230 Leave without Pay.**

Leave without pay (LWOP) is distinguished from an approved personal leave of absence. Employees are expected to appropriately manage and maintain their accrued leave banks to cover both planned absences as well as unforeseen absences due to illness or injury or other emergency circumstances. Employees who do not have enough accrued leave to cover an absence may request leave without pay. LWOP may be approved in the general manager's discretion. Notwithstanding, excessive use of LWOP may constitute a performance issue resulting in disciplinary action, up to and including termination of employment.

### **3.15.240 Eligibility for the Monthly Stipend for Medical, Dental, Vision, HRAVEBA Benefits While on Unpaid Status.**

Regular full time and regular part time employees that qualify for a monthly stipend under District Code 3.25 and who are on paid status with the District at least forty (40) hours in a monthly pay period shall receive their monthly stipend for medical, dental, vision and HRAVEBA benefits under the rules outlined in District Code 3.25. Regular full time and regular part time employees that qualify for a monthly stipend under District Code 3.25 and who are not on paid status for District for at least (40) hours in a monthly pay period shall not receive a monthly stipend for medical, dental, vision and HRAVEBA benefits under the rules outlined in District Code 3.25.

Regular full time and regular part time employees who do not receive a monthly stipend and who are expected not to receive a monthly stipend in the following month(s) may elect to continue medical, dental, and vision coverage through the District's COBRA option.