

712 – SHARED SICK LEAVE POOL

- 712.01 Purpose** The purpose of the Fort Bend County Shared Sick Leave Pool (Pool) is to provide additional paid sick leave to eligible employees. Under the guidelines of this policy, employees who exhaust all of their own accumulated leave balances may be eligible to draw from the Shared Sick Leave Pool when they are unable to report to work due to a serious health condition. Eligible employees are not able to use the Pool for leave to care for a family member with a serious health condition.
- This policy is not intended, nor shall it be interpreted, to interfere with an employee’s rights in accordance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), or the Workers Compensation Act. Further, this policy shall not be interpreted to in any way alter an employee’s “at will” status of employment with Fort Bend County.
- 712.02 Authority and Effective Date** The Fort Bend County Shared Sick Leave Pool has been established consistent with Sections 157.071-157.075: “Pooling of Sick Leave by County Employees,” of the TEXAS LOCAL GOVERNMENT CODE.
- This policy was originally adopted by Commissioners Court on July 1, 2008. The Pool became active on January 1, 2009.
- Commissioners Court reserves the right to amend, change, or delete this policy at any time, with or without notice.
- 712.03 Definitions**
- Catastrophic Illness or Injury:** For purposes of this policy, a *catastrophic illness or injury* is one that meets the criteria of a “Serious Health Condition” as defined in the Family and Medical Leave Act. See Section 704 of this manual for information on the FMLA.
- Donation:** Refers to the act of an eligible employee voluntarily giving at least eight (8) hours of their own accrued sick leave to the Pool.
- Eligible Employee:** An active full-time employee, as defined in Section 701 of this manual, with at least twelve (12) months of continuous employment with the County is eligible to become a member of the Pool.
- Member:** A *member* of the Pool is an eligible employee who has contributed at least 8 hours of their own accrued sick leave to the Pool, or an employee who was enrolled in the Pool by another Pool member as provided in Section 712.07.
- Serious Health Condition:** For purposes of this policy, *Serious Health Condition* is defined as an illness or injury that meets the definition and criteria of the Family and Medical Leave Act. The FMLA defines a *serious health condition* as an illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, or residential medical care facility; or (B) continuing treatment by a health care provider. A *serious health condition* may include incapacity or disability related to pregnancy, but does not apply to bonding time after pregnancy.
- Withdrawal:** Refers to the act by a member of the Pool, of applying sick leave hours from the Pool to absences due to a serious health condition.
- 712.04 Voluntary** Eligible employees may participate in the Shared Sick Leave Pool. Participation is voluntary; however, an employee must be a member of the Pool in order to

Participation and Enrollment Periods

withdraw sick leave hours from the Pool in the event of the employee's own serious health condition.

To self-enroll in the Pool, an employee must contribute a minimum of eight (8) hours of their own accrued sick leave balance to the Pool. Once an employee donates hours to the Pool, the hours become the property of the Pool, and the donating employee has no further claim to these hours.

Employees may self-enroll in the pool by making the minimum donation in one of the following three enrollment periods:

1. Within one month of attaining a balance of 88 hours of accrued sick leave
2. During the calendar month of December each year
3. During times of a donation drive as called for by the Shared Sick Leave Pool Administrator.

Employees are encouraged to join at their earliest eligible time, so that their membership will be effective in the event of an unexpected illness or injury.

712.05 Donations

Following are the guidelines and requirements for an eligible employee to self-enroll in the Shared Sick Leave Pool:

1. Donations to the Pool cannot cause the employee's sick leave accrual to fall below 80 hours. Therefore, an employee must have a minimum accrued sick leave balance of 88 hours in order to join the Pool.
2. An eligible employee may apply to make the minimum donation and become a self-enrolled member of the Pool during one of the three enrollment periods identified in Section 712.04. Pool membership is effective after the second full pay period following the date of application to join the Pool.
3. Eligible employees may donate a minimum of eight (8) hours and a maximum of 40 hours to the Pool.
4. Once an eligible employee becomes a self-enrolled member of the Pool by making at least the minimum 8 hour donation, the employee remains a member of the Pool until the member has ended full-time employment with Fort Bend County or has made withdrawals from the Pool totaling 480 hours.
5. An eligible employee who has ended membership in the Pool as noted in item 4 above can rejoin the Pool by making another 8 hour minimum donation to the Pool, subject to 712.05(1) above.
6. A Pool member who ends their employment with Fort Bend County for any reason shall no longer be a member of the Shared Sick Leave Pool. Neither the employee nor the employee's estate shall have any claim to any hours in the Pool, including those hours originally donated by the employee.
7. Employees who end employment with the County for any reason may voluntarily donate up to 80 hours of their accrued but unused sick leave to the Shared Sick Leave Pool. Employees must complete Form 712-D or notify Human Resources of their intent to make a donation on or before their last day of employment in order to make the donation.
8. Employees who are already Pool members may make an enrichment donation at any time during the year by completing form 712-D. Annual donations may not exceed 40 hours, and donations cannot cause the employee's sick leave accrual to fall below 80 hours.
9. Consistent with the provision of Sections 157.071-157.075 of the Local Government code, employees may not donate accrued vacation hours to the Pool.

10. The administrator of the Shared Sick Leave Pool shall monitor the Pool balance, and may seek additional voluntary donations or implement temporary withdrawal restrictions if deemed necessary to maintain a balance sufficient to serve the current and expected future needs of the members.
11. Special provisions for enrolling a co-worker in the Shared Sick Leave Pool are discussed in Section 712.07.

**712.06
Withdrawals**

Following are the guidelines and requirements for **withdrawals** from the Shared Sick Leave Pool.

1. Only Pool members are permitted to withdraw sick leave hours from the Pool.
2. The Pool member wishing to withdraw hours must submit a request for withdrawal (Form 712-W) to the Pool Administrator. The request will be reviewed within two weeks of submission.
3. If a Pool member is unable to submit the form due to illness, injury, or disability, the employee's family or an elected official or department head may submit the form on the employee's behalf.
4. Pool members must exhaust all of their own accrued sick, vacation, compensatory and deferred time prior to withdrawing any sick leave hours from the Pool.
5. Pool members must be on an approved FMLA leave or an approved medical leave of absence for their own serious health condition to withdraw sick leave hours from the Pool. Pool members may not use pool hours to extend an FMLA leave or other medical leave beyond what is necessary and approved.
6. Pool withdrawals may not be used for any period of worker's compensation leave, regardless of whether the worker's compensation leave is paid or unpaid.
7. Pool withdrawals will only be granted for a member's own serious health condition. The member must submit a properly completed FMLA form WH-380-E, Certification of Health Care Provider, (see Section 704 FMLA), signed by a licensed medical practitioner, confirming the member's serious health condition, prior to any withdrawal from the Pool. Failure to submit a completed FMLA form will result in the automatic denial of any withdrawals requested by a member.
8. The FMLA provides protected leave for qualifying employees to care for a family member with a serious health condition, or to care for their newborn child or a newly placed adopted or foster child. The Shared Sick Leave Pool is only available **for leave due to a Pool member's own serious health condition**. However, this in no way affects an employee's right to protected leave under the FMLA.
9. The maximum amount of sick leave available for withdrawal by a self-enrolled Pool member is the lesser of: 1) the number of hours needed to cover the Pool member's absences due to a qualifying serious health condition, or 2) 480 hours, or 3) 5% of the Pool balance,
10. Pool members who are enrolled in the Pool by other members shall have limited withdrawal rights, as detailed in Section 712.07(4).

**712.07
Enrollment by
Others**

Employees who do not have the required 88 hour sick leave accrual balance may become members of the Pool if they are enrolled by a fellow employee(s) in the month of December each year. The guidelines for enrollment by others are as follows:

1. One or more current Pool members may donate sick leave hours to the Pool to enroll another employee. The sum of all donations made on behalf of another employee must total at least 40 hours. No individual donation may be less than 8 hours, and the donation cannot cause the donating employee's sick leave accrual balance to fall below 80 hours.
2. The employee to be enrolled by others must have at least 12 consecutive months of employment with Fort Bend County at the time they are enrolled, and must have a minimum sick leave accrual balance of 40 hours.
3. An employee who is enrolled by others may join the Pool as a self enrolled member during any subsequent enrollment period if they attain a sick leave accrual balance of 88 hours. If an employee does not become a self enrolled Pool member within the two full calendar years following the year he or she is enrolled by others, his or her membership in the Pool shall be cancelled.
4. An employee who is enrolled by others shall be permitted an annual withdrawal of no more than 64 hours (equivalent to a full year's sick leave accrual). The withdrawal is also subject to the qualifications and restrictions as detailed in Section 712.06.
5. When and if a member who was enrolled by others becomes a self enrolled member of the Pool as provided by 712.07 (3) above, the member shall have the same rights and restrictions as other self-enrolled members.

The requirements and restrictions of enrollment by others of this Section (713.07) are effective April 23, 2013. Pool members who were enrolled by others prior to April 23, 2013 are also subject to the 64 hour annual withdrawal restriction detailed in 712.07 (4) above. In addition, a Pool member enrolled by others prior to April 23, 2013 may self enroll in the Pool during any enrollment period if they attain a sick leave accrual balance of 88 hours or more. Such members who do not self enroll by December 31, 2015 shall have their membership cancelled effective January 1, 2016.

**712.08
Pool
Administration**

1. Commissioners Court has designated that the administrator of the Fort Bend County Shared Sick Leave Pool shall be a committee, consisting of the Director of Human Resources or designee, a representative from the Fort Bend County Health and Human Services Department as designated by the Director of Health and Human Services, and two committee members elected by the members of the Pool to serve a one year term.
2. The committee shall be responsible for reviewing withdrawal applications and medical certification forms submitted by Pool members. To protect a Pool member's privacy, identifying information, such as name, address, SSN, title or position, shall be redacted from the forms by Human Resources prior to the committee's review.
3. If approved by the committee, the withdrawal application will be submitted to Commissioners Court for final approval before the withdrawal is authorized and submitted to the payroll department for processing.
4. The committee shall be responsible to maintain accurate records of membership in the Pool, document deposits and withdrawals from the Pool and shall strictly follow all Pool guidelines as set forth by this policy. No deviation from these guidelines shall be allowed, except by action of Commissioners Court.
5. The two elected members of the Committee shall serve for a term of one calendar year. Each December, nominations will be sought and elections held of the general Pool membership, to elect two members to serve in the upcoming year. If nominated and elected, committee members may serve

more than one term.

**712.09
Violations of Policy**

Any employee who knowingly violates the provisions of this policy or attempts to use this Shared Sick Leave Pool for any reason other than its intended purpose, shall be denied further membership in the Pool and may be responsible to repay any money received for use of sick leave hours from the Pool. Such violation of policy may also result in disciplinary action, up to and including termination of employment.

**712. 109
County Reserves
Right**

Commissioners Court reserves the right to revise, change, modify, suspend or cancel this policy, within the constraints of law, at any time.

Approved and Adopted by
Commissioners Court
July 1, 2008
Revised June 23, 2009
Revised March 1, 2011
Revised April 23, 2013