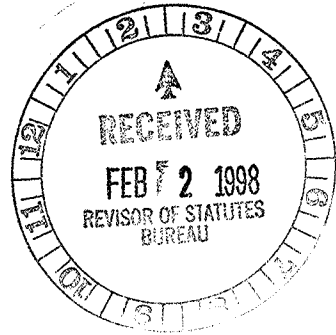


Clearinghouse Rule 97-142

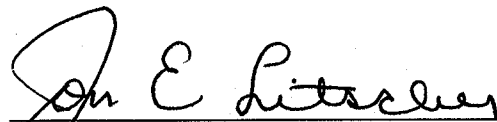


STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF EMPLOYMENT RELATIONS )

I, Jon E. Litscher, Secretary of the Department of Employment Relations and custodian of the official records, certify that the annexed rules, relating to sick leave credits, the adjustment of sick leave balances for state employes and catastrophic leave were duly approved and adopted by this Department on the 2nd day of February, 1998.

I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of the Department of Employment Relations at 137 E. Wilson Street in the city of Madison, this 2nd day of February, 1998.

  
\_\_\_\_\_  
Jon E. Litscher, Secretary  
Department of Employment Relations

4-1-98  
97-142

**ORDER OF THE SECRETARY  
OF THE DEPARTMENT OF EMPLOYMENT RELATIONS  
ADOPTING RULES**

To renumber ER 18.15 (2) (a) to (h) and 18.15 (3) (a) and (b); to amend ER 18.02 (2)(b) 6., (3)(c) 3., and (5)(c), 18.03 (2)(a), 18.04 (4)(c), 18.15 (1)(c), (2) (intro.), (3) (intro.) and (4)(a) 3., and to create ER 18.02 (5)(bm) and (6)(b) 6., 18.03 (6) and (7), 18.15 (2) (a) and (b) (intro.), 18.15 (3) (a) and (b) (intro.) and 18.15 (4m), relating to annual leave, sick leave credits, the adjustment of sick leave balances for state employes and catastrophic leave.

**ANALYSIS PREPARED BY DEPARTMENT OF EMPLOYMENT RELATIONS**

S. 230.35 (2), Wis. Stats., provides that sick leave for state employes shall be regulated by the administrative rules of the Secretary of the Department of Employment Relations. Rules governing sick leave are located in s. ER 18.03, Wisconsin Administrative Code.

S. ER 18.03 (2) provides that sick leave credits accrue at the rate of .05 hour for each hour in pay status, not to exceed 4 hours in any biweekly pay period. An employe working full time (i.e. 80 hours in a biweekly pay period) would thus earn 104 hours of sick leave in one year, or 13 days.

This rule increases the accrual rate for sick leave from .05 hour to .0625 hour for each hour in pay status, not to exceed 5 hours in any biweekly pay period. The annual earning rate for a full-time employe would increase to 16.25 days per year.

On the effective date of the rule, the sick leave balances of active state employes would be adjusted to apply the higher accrual rate to hours worked between July 6, 1997 and the effective date of the rule change. Similar adjustments would be made to the sick leave balances of employes who retired or were laid off during that time period. Employes who began an unpaid leave of absence during that time period would have their sick leave balance adjusted when they returned to work. Adjustments will also be made to the sick leave balances of employes who move from a represented position to a position covered by the rules on sick leave, if the employe's balance had not been previously adjusted under a collective bargaining agreement.

The Department's authority to promulgate the rules regarding catastrophic leave is found in s. 230.04 (5) and 230.35 (2r), Stats. The rules implement the powers and duties of the Secretary under s. 230.04 (1) and 230.35 (2r), Stats.

Current rules regarding catastrophic leave are found in ER 18.15, Wis. Admin. Code. Current rules allow a donor to donate leave credits only to nonrepresented employees within the same employing unit, except that donations may be made to recipients in different employing units in the same agency with the approval of the appointing authority. Similarly, a recipient may receive credits only from other nonrepresented employees within the same employing unit. This rule would allow a donor to donate leave to, and allow a recipient to receive leave from, any eligible classified employe -- nonrepresented or represented -- within the same agency. Leave may also be exchanged with any eligible classified employe in another agency with the approval of each affected agency.

The rule makes several technical changes in chapter ER 18 to reflect the proper cross-references and newly added provisions to the statutes or rules.

### **TEXT OF PROPOSED RULE**

**SECTION 1.** ER 18.02 (2)(b) 6. is amended to read:

ER 18.02 (2)(b) 6. Was a career executive employe or employed under s. 20.923 (4), (4m), (8) or (9), Stats., who left the service and returned to state employment as a career executive or in any such enumerated position regardless of the duration of absence as provided under s. 230.35 (1m) (f), Stats. This applies to all persons who are career executive employes or employes in positions enumerated in s. 20.923 (4), (4m), (8) or (9), Stats., on or after July 1, 1973.

**SECTION 2.** ER 18.02 (3)(c) 3. is amended to read:

ER 18.02 (3)(c) 3. Full-time, full year career executives and certain executive salary schedule employes. Annual leave for career executives, as provided under ch. ER-MRS 30, and persons included under s. 19.42 (10) (L) or 20.923 (4), (4m), (8) and (9), Stats., employes in positions authorized under s. 230.08 (2)(e), Stats., and employes appointed to a position designated as an attorney position in which the employe is employed and acts as an attorney, unless the attorney position is a limited term appointment under s. 230.26, Stats. shall be based upon accumulated continuous service and earned at the rate shown in the following table:

**SECTION 3.** ER 18.02 (5)(bm) is created to read:

ER 18.02 (5)(bm) Pursuant to s. 230.35 (1p)(c), Stats., employes who earn annual leave at less than the rate of 160 hours per year and who have accumulated, at any time during the employe's continuous state service, a minimum of 520 hours of sick leave may elect to receive up to 40 hours of earned annual leave as credit for termination leave or as accumulated sabbatical

leave or both. An election under this paragraph shall be made in the year in which the annual leave is earned.

**SECTION 4.** ER 18.02 (5) (c) is amended to read:

ER 18.02 (5) (c) The number of hours available for use under pars. (a) and (b) and (bm) shall be prorated at the pertinent annual leave rate or rates for employees who work less than 2088 hours during the calendar year.

**SECTION 5.** ER 18.02(6)(b) 6 is created to read:

ER 18.02 (6)(b) 6. Employees may use annual leave as provided in ER 18.15 (4) (f) and (g).

**SECTION 6.** ER 18.03 (2) (a) is amended to read:

ER 18.03 (2) ACCRUAL OF SICK LEAVE. (a) Sick leave credit shall accrue at the rate of ~~.05~~ .0625 hour for each hour in pay status, not to exceed ~~4~~ 5 hours in any biweekly pay period.

↑  
The numeral  
"4" is stricken.

**SECTION 7.** ER 18.03 (6) and (7) are created to read:

ER 18.03 (6) ADJUSTMENT TO SICK LEAVE BALANCE OF EMPLOYEES ON UNPAID LEAVE OF ABSENCE. Employees who began an unpaid leave of absence on or after July 6, 1997 and before October 12, 1997 shall have their sick leave balances recomputed, upon their return to a position covered by this section, at the rate of .0625 for each hour in pay status, not to exceed 5 hours in any biweekly pay period, based on the number of hours in pay status in a position covered by this section during that time period. Any additional sick leave credits will be credited to the employee's sick leave balance and are available for prospective use only.

(7) ADJUSTMENT TO SICK LEAVE BALANCE. (a) The sick leave balances of all employees in pay status on October 12, 1997 and former employees who retired or were laid off from a position during the period from July 6, 1997 to October 12, 1997 shall be recomputed at the rate of .0625 for each hour in pay status, not to exceed 5 hours in any biweekly pay period, based on the number of hours in pay status in a position covered by this section during that time period. Any additional sick leave credits will be credited to the employee's sick leave balance and are available for prospective use only, except that former employees who retired or were laid off after July 6, 1997 and before the October 12, 1997 may use the additional sick leave credits for the payment of health insurance premiums in the same manner as any sick leave credits that were available to them for that purpose at the time of retirement or layoff.

(b) The sick leave balances of all employes who move after October 12, 1997 from a position covered by a collective bargaining agreement under subchapter V of Chapter 111, Wis. Stats., to a position covered by this section shall be recomputed at the rate of .0625 for each hour in pay status, not to exceed 5 hours in any biweekly pay period, based on the number of hours in pay status in a position or positions covered by a collective bargaining agreement between July 6, 1997 and the effective date of the employe's move to a position covered by this section. The sick leave balance of an employe may not be adjusted for any hours in pay status during that time period if the employe's sick leave balance previously has been adjusted for those hours under sub. (6) or par. (7)(a) or under terms of a collective bargaining agreement. Any additional sick leave credits will be credited to the employe's sick leave balance and are available for prospective use only. This paragraph does not apply after June 30, 1999.

**SECTION 8.** ER 18.04(4)(c) is amended to read:

ER 18.04 (4)(c) Personal holidays shall be used prior to the end of the calendar year except as provided under s. 230.35 (4)(d) 4., Stats., and ER 18.15 (4) (f) and (g).

**SECTION 9.** ER 18.15 (1) (c) is amended to read:

ER 18.15 (1) (c) "Employee" means any person who receives remuneration for services rendered to the state under an employer-employee relationship in the classified service, except limited term employes ~~and employes covered by a collective bargaining agreement under subch. V of ch. 111, Stats.~~

**SECTION 10.** ER 18.15 (2) (intro.) is amended to read:

ER 18.15 (2) (intro.) DETERMINING RECIPIENT ELIGIBILITY. To be an eligible recipient, an employe shall satisfy ~~all of the following conditions~~ under par. (a) or (b):

**SECTION 11.** ER 18.15 (2) (a) to (h) are renumbered 18.15 (2) (b) 1. to 8.

**SECTION 12.** ER 18.15 (2) (a) and (b) (intro.) are created to read:

ER 18.15 (2) (a) Be an eligible recipient under a catastrophic leave program under a collective bargaining agreement under subch. V of ch. 111, Stats., or;

(b) (intro.) Satisfy all of the following conditions:

**SECTION 13.** ER 18.15 (3) (intro.) is amended to read:

ER 18.15 (3) (intro.) DETERMINING DONOR ELIGIBILITY. To be an eligible donor, an employe shall satisfy ~~all of the following~~ conditions under par. (a) or (b):

**SECTION 14.** ER 18.15 (3) (a) and (b) are renumbered ER 18.15 (3) (b) 1. and 2.

**SECTION 15.** ER 18.15 (3) (a) and (b) (intro.) are created to read:

ER 18.15 (3) (a) Be an eligible donor under a catastrophic leave program under a collective bargaining agreement under subch. V of ch. 111, Stats., or;

(b) (intro.) Satisfy all of the following conditions:

**SECTION 16.** ER 18.15 (4)(a) 3. is amended to read:

ER 18.15 (4)(a) 3. A donor may donate leave credits only to recipients within the same ~~employing unit~~ agency, except that donations may be made to recipients in different ~~employing units in the same agency~~ agencies with the approval of the donor's appointing authority and the recipient's appointing authority.

**SECTION 17.** ER 18.15 (4m) is created to read:

ER 18.15 (4m) If an employe is covered by a catastrophic leave program under a collective bargaining agreement under subch. V of ch. 111, Stats., the provisions of the applicable collective bargaining agreement shall determine eligibility, limitations on the receipt, donation and usage of leave and other conditions of catastrophic leave as they apply to that employe.

#### **EFFECTIVE DATE**

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)(intro), Stats.

#### **AGENCY CONTACT**

Bob Van Hoesen  
137 East Wilson Street  
Madison, WI 53702  
(608) 267-1003