

**ORDER OF THE DEPARTMENT OF ADMINISTRATION
ADOPTING EMERGENCY RULES**

The statement of scope for this rule, SS 137-15, was approved by the Governor on December 11, 2015, and published in Register No. 720A3 on December 21, 2015, and approved by the Department of Administration Secretary, Scott Neitzel, effective December 31, 2015. This emergency rule was approved by the Governor on April 21, 2016.

Finding of Emergency

Implementation of Human Capital Management portion of PeopleSoft for the STAR Project is effective January 1, 2016. PeopleSoft will require using 2080 hours instead of 2088 hours as a full year in certain provisions of the ER rules. Additionally, 2015 Act 58 changed Wis. Stats. s. 230.26 to provide the maximum length of limited term appointments be reduced from 1043 to 1039 hours. Further, 20015 Wisconsin Act 21 changed s. 230.35 (1m), Stats., to allow nonrepresented employees with FLSA nonexempt status to receive an annual leave schedule identical to that of FLSA nonexempt status employees covered by collective bargaining agreements. These changes are necessary to the public welfare to conform administrative rules to statutory and technological changes.

Rule Analysis

- 1. Statutes interpreted:** ss. 230.26, 230.35 (1m) and 230.04 (5), Stats.
- 2. Statutory authority:** ss. 227.11, Stats. and 230.04 (5), Stats.
- 3. Explanation of agency authority:**

The administrator of the Division of Personnel Management is empowered to promulgate rules related to state employment.

- 4. Related statute or rule:** ss. 230.26, 230.35 (1m) and 230.04 (5), Stats.
- 5. Plain language analysis:**

The objective of the rules are to conform the administrative code to statutory and technological changes. The proposed rule will do the following:

- a. Adjust the maximum number of hours that an LTE may work in accordance with statute.
- b. Adjust the amount of a hours of annual leave for nonrepresented employees with FLSA nonexempt status to receive an annual leave schedule identical to that of FLSA nonexempt status employees covered by collective bargaining agreements, in accordance with statute.
- c. Adjust the number of hours worked for every full time employee in conformance with the presumption of software purchased and implemented for the administration of payroll.

- 6. Summary of and comparison with, existing or proposed federal regulations.**

Not applicable.

7. Comparison with rules in adjacent states:

Not applicable.

8. Summary of factual data and analytical methodologies:

Not applicable.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Not applicable.

10. Fiscal Estimate:

See attached, but no expected fiscal impact.

11. Effect on small business: The proposed rule changes will have no impact upon small businesses.

12. Agency contact person:

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SECTION 1: Section ER 10.01 is amended to read:

ER 10.01 Definition and categories of limited term appointments. The total time worked in any one position by an individual limited term employee shall not exceed ~~1043~~ 1039 hours of employment during a block of time which consists of 26 consecutive biweekly payroll periods and which ends on the anniversary date of the appointment. The maximum time durations for provisional appointments are provided under s. 230.26 (2), Stats.

SECTION 2: Section ER 18.02(3)(c) 1. to read:

1. Full-time, full-year ~~employment~~ employees in nonexempt status under the federal Fair Labor Standards Act, 29 USC 201 to 219. Annual leave shall be based upon accumulated continuous state service and earned at the rate for each year as shown in the following table:

ANNUAL LEAVE RATE FOR
FULL YEAR OF SERVICE

Years of Service	Hours Earned Each Year
During First 5	80 <u>104</u>
5+ to 10	120 <u>144</u>
10+ to 15	136 <u>160</u>
15+ to 20	160 <u>184</u>
20+ to 25	176 <u>200</u>
25 & Over	200 <u>216</u>

SECTION 3: Section ER 18.02(4)(d) is amended to read:

(d) The amount of annual leave earned by an employee during a calendar year is based on the employee's hours in pay status up to a maximum of 80 hours per biweekly pay period. Annual leave is not earned during overtime work hours. Hourly annual leave amounts earned for each hour in pay status can be computed by using the following:

ANNUAL LEAVE RATE	CONVERSION FACTOR
80 hr. rate	.038314 per hour
<u>104 hr. rate</u>	<u>.050000 per hour</u>
120 hr. rate	.057471 <u>.057692</u> per hour
136 hr. rate	.065134 <u>.065385</u> per hour
<u>144 hr. rate</u>	<u>.069231 per hour</u>
160 hr. rate	.076628 <u>.076923</u> per hour
176 hr. rate	.084291 <u>.084615</u> per hour
<u>184 hr. rate</u>	<u>.088462 per hour</u>
200 hr. rate	.095785 <u>.096154</u> per hour
216 hr. rate	.103448 <u>.103846</u> per hour

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

(c) The number of hours available for use under pars. (a) and (b) shall be prorated at the pertinent annual leave rate or rates for employees who work less than ~~2088~~ 2080 hours during the calendar year.

SECTION 2: EFFECTIVE DATE. The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

By: _____ Date: _____
Scott Neitzel, Secretary
Wisconsin Department of Administration