

Form #1

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

4.00



Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STATE
PERSONNEL BOARD
John A. Canfield, Chairman
Rev. Paul J. Gilmer, Member
Sharon H. Lynch, Member
Roger Morgan, Member
Eugene Stump, Member

MEMORANDUM

TO: State Personnel Board Members

FROM: BG (Ret) Robert L. Stephens, Jr., Director
West Virginia Division of Personnel

RE: Request to File a Proposed Rule

DATE: May 10, 1995

During the recent legislative session, Senate Bill 158 was passed. This legislation provides for a voluntary annual leave donation program for state employees which would be established by the Division of Personnel by legislative rule.

I respectfully request your approval to file the attached proposed rule and notice of public hearing for the leave donation program with the Secretary of State.

Thank you.

BG(Ret)RLSjr:TMC/

Attachments

APPROVED

John A. Canfield, Chairman May 18, 1995

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Leave Donation Program

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Division of Personnel

Address Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0139

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	DECREASE	DECREASE	CURRENT	NEW	HEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

See attached.

3. Objectives of these rules: To establish a program whereby one state employee may voluntarily donate annual leave to another state employee who is experiencing a medical emergency and who has exhausted his/her available paid leave.

Rule Title: Leave Donation Program

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

See attached.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

See attached.

C. Economic Impact on Citizens/Public at Large.

See attached.

Date: May 19, 1995

Signature of Agency Head or Authorized Representative

Robert L. Stephens, Jr.

EG (Ret) Robert L. Stephens, Jr., Director
West Virginia Division of Personnel

Agency Contact: Tari McClintock Crouse
538-3950

FISCAL NOTE FOR PROPOSED RULE
for
LEAVE DONATION PROGRAM

1. Explanation of above estimates:

The proposed rule is essentially revenue neutral because the transfer of annual leave is treated at the dollar value of the annual leave transferred.

For example, if an employee earning an annual salary which equates to a rate of \$8/hour donates 5 hours of annual leave, the dollar value is \$40. If the employee receiving the leave earns an annual salary which equates to a rate of \$12/hour, the donated leave is treated at its dollar value, thus, the employee receiving the leave would be paid for 3.33 hours at their rate of \$12/hour (i.e. \$40).

We anticipate some costs in terms of administrative time and effort in processing the leave transfers. However, we expect these costs to be minimal.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. As noted above, the proposed rule is essentially revenue neutral in terms of cost to the state for payment of annual leave. However, the proposed rule has the potential to save money for the state by providing a means to continue the salaries (through donations from other state employees) of individuals who would otherwise suffer significant losses of income due to prolonged illnesses or injuries. These individuals, many of whom have no other source of income, are thus not placed in the position of having to be supported by public assistance, hence saving money for the state.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens. See above.

C. Economic Impact on Citizens/Public at Large. See above.

SUMMARY OF PROPOSED EMERGENCY RULE

LEAVE DONATION PROGRAM

The proposed emergency rule implements Senate Bill 158 (West Virginia Code §29-6-27) which authorizes a voluntary leave donation program for state employees. The program allows state employees to donate accrued annual leave, on a one-to-one basis, to other state employees who are experiencing medical emergencies and who have exhausted their available paid leave.

The proposed emergency rule defines terms, specificities conditions of eligibility for both recipients and donors, indicates the employment status of recipients, stipulates the method of donations and use of donated leave, delineates the responsibilities of appointing authorities and the Division of Personnel and provides a means for amending the rule.

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STATEMENT OF CIRCUMSTANCES REQUIRING THIS RULE

Senate Bill 158 (West Virginia Code §29-6-27) requires the Division of Personnel to establish the leave donation program by legislative rule which shall be filed no later than July 15, 1995.

143CSR2
WEST VIRGINIA DIVISION OF PERSONNEL
LEAVE DONATION PROGRAM

Section 1. General

- 1.1. Scope: This rule implements the provisions set forth in WV Code §29-6-27 regarding a voluntary annual leave donation program for state employees.
- 1.2. Authority: This rule is issued under authority of WV Code §29-6-27.
- 1.3. Filing Date:
- 1.4. Effective Date:

Section 2. Definitions. Terms used in this rule which are not included in this section have the meaning given in the Administrative Rule of the Division of Personnel 143CSR1.

2.1 Annual Leave: An earned employee benefit of paid time off from work as provided in the Administrative Rule of the West Virginia Division of Personnel 143CSR1.

2.2. Appointing Authority: The executive or administrative head of a governmental unit who is authorized by statute to appoint employees in the classified and/or classified-exempt service or employees exempt from coverage.

2.3. Dollar Value of Annual Leave: The hourly rate of an employee multiplied by the number of hours of annual leave.

2.4. Donor: An employee who voluntarily donates accrued annual leave to a recipient.

2.5. Employee: Any person occupying a classified or classified-exempt state position or a state position exempt from coverage who is paid a wage or salary and who is entitled to annual leave as a benefit of employment.

2.6. Hourly Rate: The total annual base salary for a full-time employee divided by 2,080 hours or, for a part-time employee, divided by the actual numbers of hours worked annually.

2.7. Immediate Family: The immediate family consists of the parents, children, siblings, spouse, parents-in-law, children-in-law, grandparents, grandchildren, step-parents, step-siblings, stepchildren, and individuals in a legal guardianship relationship.

2.8. Inter-Agency Donation: A donation of annual leave where the donor is paid from one operating account and the recipient is paid from another operating account.

2.9. Medical Emergency: A medical condition of an employee or a member of the employee's immediate family that is likely to require the prolonged absence of the employee from duty and which will result in a substantial loss of income to the employee because of the unavailability of paid leave.

2.10. Recipient: An employee who receives (an) annual leave donations from other employees.

2.11. Substantial Loss of Income: An amount greater than or equal to one-half month of an employee's base pay.

Section 3. Eligibility

3.1. Recipient Eligibility. In order to be eligible to receive donations of annual leave, an employee must meet the following conditions:

a. The employee must have a medical emergency involving a medical condition of the employee or a member of the employee's immediate family;

b. In the case of a medical emergency involving a medical condition of the employee, the employee must have exhausted all sick leave and all annual leave as well as any other accrued paid leave to which the employee is entitled;

c. In the case of a medical emergency involving a medical condition of a member of the employee's immediate family, the employee must have exhausted all annual leave and the sick leave allowance for members of the employee's immediate family as provided in the Administrative Rule of the Division of Personnel, 143CSR1;

d. The medical condition of the employee or the member of the employee's immediate family must be verified in writing by a physician/practitioner as requiring the absence of the employee from work for at least one half a month after the exhaustion of available leave as specified in sub-sections 3.01.b. and 3.01.c. of this section. The Director of Personnel shall establish the criteria for the physician/practitioner's verification;

e. The employee must apply to receive donated leave according to procedures established by the Director of Personnel. If, because of the nature of an employee's medical condition, the employee is unable to apply to receive donated leave, the application may be made by a member of the employee's immediate family or by the employee's appointing authority; and,

f. The employee must not be receiving compensation for his/her absence from work from any other source.

3.2. Donor Eligibility. In order to be eligible to make donations of annual leave, an employee must meet the following conditions.

a. The employee must have a remaining balance of 80 hours of accrued sick and/or annual leave after making the annual leave donation.

b. The employee must make the leave donation according to procedures established by the Director of Personnel.

Section 4. Recipient Status. Employees who are recipients of donated leave, in all respects except for the receipt of salary, are considered in leave without pay status in accordance with the Administrative Rule of the Division of Personnel, 143CSR1.

4.1. Recipients whose absences are due to their own medical condition are considered on medical leave of absence without pay for up to six months, and, if requested by the employee and approved by the appointing authority, on personal leave of absence for medical reasons for up to an additional six months.

4.2. Recipients whose absences are due to the medical conditions of

members of their immediate family are considered on personal leave of absence without pay.

4.3. The following restrictions regarding benefits shall apply to recipients:

a. Recipients do not accrue annual or sick leave, nor do they earn years of service credit for leave accrual purposes, while in this status;

b. Recipients are not eligible for paid holidays while in this status;

c. Recipients do not earn tenure for purposes of order of separation on layoff while in this status;

d. Recipients do not earn service credit for purposes of annual increment while in this status;

e. Recipients do not earn service credit for any retirement system administered by the state of West Virginia while in this status; and,

f. Recipients eligibility to have the employer share of insurance premiums paid is determined in accordance with regulations and procedures of the Public Employees' Insurance Agency for employees in leave without pay status.

4.4. The receipt of donated leave in no way relieves an employee of the responsibilities of applying for either a personal or a medical leave of absence without pay or receiving approval for a personal leave of absence without pay in accordance with the Administrative Rule of the Division of Personnel 143CSR1.

Section 5. Method of Donations and Use of Donated Leave. All donations of annual leave and the use of donated leave is governed by the following criteria and procedures established by the Director of Personnel in conformance with these criteria.

5.1. Method of Donations

a. Donations are in the form of whole hours of annual leave only.

b. Donors must specifically designate the recipient(s) of the leave donation.

c. The appointing authority must deduct the total donation from the annual leave balance of the donor upon receipt of the donation form specified by the Director of Personnel.

d. The appointing authority of the donor must calculate the dollar value of the donated leave and transmit that information to the appointing authority of the recipient, if not the same, according to procedures established by the Director of Personnel.

e. For inter-agency donations, the appointing authority of the donor must reimburse the personal services account from which the recipient was paid according to procedures established by the Director of Personnel.

f. An appointing authority of a potential donor may limit inter-agency donations when he/she determines that such a donation will cause the operating account from which the potential donor is paid to exceed its appropriation or cash balance.

5.2. Use of Donated Leave

- a. Donated leave is used at its present dollar value.
- b. The appointing authority of a recipient of donated leave continues to pay the base salary of the recipient as long as there is a balance of the total dollar value of all leave donated to the recipient.
- c. For inter-agency donations, the appointing authority of the recipient requests reimbursement from the appointing authority of the donor according to procedures established by the Director of Personnel.
- d. A recipient's use of donated leave ceases:
 - A. if the recipient, for any reason, ceases employment with the state; or,
 - B. if the recipient voluntarily requests termination of the use of donated leave; or,
 - C. if the recipient fails to provide the required physician/practitioner's verification; or,
 - D. upon the exhaustion of the total dollar value of all leave donated to the recipient.

Section 6. Appointing Authorities' Responsibilities. Appointing authorities are responsible for compliance with this rule and the procedures established by the Division of Personnel for implementation of the rule.

6.1. Appointing authorities are responsible for assuring that donors and recipients meet all conditions of eligibility for the leave donation program.

6.2. Appointing authorities are solely responsible for and authorized to provide information regarding instances of eligible employees seeking donations of annual leave in accordance with procedures established by the Division of Personnel.

6.3. Appointing authorities must maintain all records of donations and use of donated leave in accordance with procedures established by the Division of Personnel.

6.4. Appointing authorities must provide all required and requested information and reports in accordance with procedures established by the Division of Personnel.

Section 7. Division of Personnel's Responsibilities and Annual Report. The Division of Personnel is responsible for establishing standards and procedures for implementation of this rule and for preparing an annual status report on the leave donation program to be presented to the joint committee on government and finance no later than the fifth day of January each year.

Section 8. Amendments. If and when it is desirable and in the interests of good administration, the State Personnel Board, after public notice, public hearing and legislative approval, may amend this rule.