WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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1995 JUL 31 PM 3:39

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: WV Division of Personnel TITLE NUMBER: 143

CITE AUTHORITY W.V. Code §29-6-27

AMENDMENT TO AN EXISTING RULE: YES____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Leave Donation Program

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Charles Polan

15.50

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

July 12, 1995

To Members of the State Personnel Board:

Your approval is requested for filing of the proposed rule for the Leave Donation Program with the Secretary of State and the Legislative Rule-Making Review Committee as provided *W.V. Code* §29-6-27.

In accordance with the provisions of *W.V. Code* §29A-3-1 et seq., a copy of the proposed rule and a notice of public hearing was filed with the Secretary of State's Office and copies of the proposed rule were sent to state agencies for comment. The public hearing was held on June 21, 1995 at which time six individuals made oral comments. In addition, we have received written comments from several agencies and individuals.

We have reviewed the comments and are in the process of responding to the comments. We have also been working with a group consisting of representatives of various agencies to develop the forms and procedures to implement this program. As a result of those meetings, I am recommending that the rule be modified as indicated on the attached copy by strike-throughs and underlines.

Thank you for your consideration of this request.

Sincerely,

Robert L. Stephens

BG (Ret) Robert L. Stephens, Jr.
Director of Personnel

APPROVED John A. Canfield **July 20, 1995**
John A. Canfield, Chairman

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		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$ -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: July 31, 1995

Signature of Agency Head or Authorized Representative

Robert L Stephens

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

Agency Contact: Tari McClintock Crouse
558-3950

FISCAL NOTE FOR PROPOSED RULE
for
LEAVE DONATION PROGRAM

2. 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.

DATE: 31 July 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

LEGISLATIVE RULE TITLE: Leave Donation Program

1. Authorizing statute(s) citation W.V. Code §29-6-27

2. a. Date filed in State Register with Notice of Hearing

19 May 1995

b. What other notice, including advertising, did you give of the hearing?

Copies sent to all state agencies and employee organizations; notice published in "Stateline" and "Administrators' Bulletin".

c. Date of Hearing(s) 21 June 1995

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

31 July 1995

f. Name and phone number(s) of agency person(s) to contact for additional information:

Tari McClintock Crouse

558-3950

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

   a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

      N/A

   b. Date of hearing: N/A

   c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

      N/A

   d. Attach findings and determinations and reasons:

      Attached N/A

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, specificies 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.

- - - - - - - - - - - - - - - - - -

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.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 or be eligible to receive compensation for his/her absence from work from the Workers' Compensation Fund.

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 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 as well as 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 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 donation 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 recipient, according to procedures established by the Director of Personnel, as long as there is a positive 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.

PUBLIC HEARING ON LEAVE DONATION PROGRAM
June 21, 1995 at 2:00 P.M.
State Capitol Complex
Room 420, Building 6
Charleston, West Virginia 25305

Present at the meeting for the Division of Personnel were Robert L. Stephens, Jr., Director, Division of Personnel and Assistant Director, Tari McClintock Crouse. Also present were the individuals who signed in on the attached sheet.

Transcript of Comments

Barbara Watts, Division of Tax and Revenue: I was asked to ask this question. It's on page 3, item 4-3b. Recipients are not eligible for paid holidays while in this status. How does that work? How is it going to work?

Ms. Crouse: I might also mention, that in regards to particular questions that are asked here, we will respond in writing to any kind of questions.

Fonda Hammack, Department of Agriculture: I have two questions. The donated time if there's any remaining after the person returns to work, what happens to that time? And in the rule it says "the recipient is not to be credited for any retirement or annual leave at that time". So do we deduct retirement from their pay check?

Ms. Crouse: Let me go ahead and answer that question, now, regarding the retirement. The law, Senate Bill 158 specifically states that there is no retirement credit whatsoever on any donated leave.

Doug Miller, Division of Environmental Protection: You answered my question.

Steve Wade, West Virginia Employees Union: I don't have any questions but I do have some comments. I don't think, I'm pretty sure this was not the intent of the legislature when it was passed. We lobbied for this legislation and the idea behind it was to give people a fall back position. Now, the one part on 3.1-D off work for one half month has been taken care of evidently. But the balance of 80 hours for sick or annual leave. This is an annual leave bill although we tried very hard to get it to include sick leave and make it a sick leave bill because it involves around people being ill. Okay, so it should have been a sick leave. But the fact if its annual leave, why should an employee ... I guess, I do have a question. Why should an employee have to have 80 hours balance of sick or annual leave in order to donate? Okay. I mean its an annual leave bill, they have one hour of annual leave in their account, they should be allow to give that hour. Its theirs, they earned it and its theirs, and sick leave shouldn't apply to it at all. You should just take sick leave completely out of it. It has no bearing on it because it's an annual leave bill. On leave without pay status it conflicts with the present dollar amount because this says "donated leave is used at its present dollar amount." Now, if I've got 10 hours of annual leave and I donate to the bank, if I would have used that leave I would have continued to accrued sick leave and annual leave and all my benefits, and the person that I donated to should be able to continue to accrue those benefits, also. Because your calling it the present dollar amount but yet your raping that dollar, by the time I give it your taking away a third or a half of its value from the person I gave it to. Its not far to the person that donated

it nor is it far to the person who receiving it. We really have a big problem with that and we think that's wrong, wrong, wrong. The state is just trying to save money that way and take some of the donated money back in kettle. That not what the intent of the bill was and we don't agree with it at all. 5.1 B - designates who gets the leave. We've got a real problem with that and we don't think that's the intent of the bill, either. We think that the leave bank should be a leave bank and it should be out there and we should ...the Division of Personnel should call on every state employee to say "we have established this leave bank would everybody please give one hour of annual leave" and then all of a sudden you've got 25, 000 hours of annual leave sitting there in that leave bank. And if somebody meets the other criterias, they can apply for the leave and automatically you should give them the leave. And for the person who is donating it to have to specify who it is going to, that's absurd. It's going to be a popularity contest out there. If you don't have any friends and people don't like you for some reason but your sick and you have a catastrophic illness, are you going to be penalized because you don't have any friends? That answer to that should be no. You should not be penalized. What should be, you should be able to get that leave time just like anybody else and to say you have to go around, basically what you would be doing is begging people for leave time, "please loan me some leave time", that wasn't the intent of this bill at all. The intent was to establish a leave bank. And in order to do that it got to be anonymous, you cannot request specific people to be donate to. And think that's really bad, its bad public policy, its bad for everybody involved here. The other thing we have a problem with is 5-f - leave donation exceeding cash balance of the agency. If you have an agency out there and that agency has employees who have 200 hours of annual leave, you know that agency should already physically responsible enough to pay that annual leave and to give anybody the right to say "well we don't have that money, so we're not going to allow you to donate leave" it shouldn't work that way. They got to have the money because it's the employee who is actually donating the leave and it's that employees leave, it's not the agency leave. You couldn't deny the employee that annual leave if he wanted to take it based upon their operating deficient nor should you be able deny someone who is being donated the right to the donation based upon the operating deficient. And other than those things I think that pretty much all I have. We would hope that the Personnel Board would take some of these suggestions under consideration, especially the fact of the autonomy in creating the leave bank and not begging system for donated leave prior to the legislative session because when the legislative session comes we're going in there and try and get this thing amended from the points of what we've just said and we're going to be fighting very vigorously to do so and hopefully we can get this thing straighten out through the Personnel Board so none of this will have to happen. Thank you.

Chris Gordon, Department of Health and Human Resources: Today I'm here representing approximately 25 fellow employees who have signed a petition encouraging the prompt implementation of this rule. We have the secretary for our particular office who had a cerebral aneurysm in March. She was very fortunate, she did survive but she is going to be unable to work for approximately a year, at the very best. She's single, she raised her two children entirely by herself. She has been more than a secretary to all of us, she had been a friend, she has always helped us, and this is our opportunity to help her. She goes off the payroll on July 6th, so we're encouraging... I

have a copy of the signatures of other employees who are very interested in donating leave to her, to help her out. We hope this can be implemented very quickly to help her. I just have a couple of points in addition to that, in the definitions, I would encourage you to consider adding step grandchildren. Since my son is about to marry a gal with a child already that might be something I might need to deal with. And Section 5.2-D - the similar question was asked previously about if the employee goes back to work.... but these particular provisions refer to when the benefits cease and what happens to the dollar balance if there is such. Thank you.

Ms. Crouse: Chris, I'm sure you will be pleased to know that the Secretary of State did approve the implementation of the program as an emergency rule late the week before last. We send out notice last week to all state agencies. One of the things we're doing right now is working on the forms and procedures. We're committed to have all that done by middle of July and so we hope that it will be able to help out in your situation.

Linda Stamper, Bureau of Employment Programs: I have a comment concerning 5.2-C & D. The question was posed by my director. What's happens to unused balances? Of course, we have heard that already. I feel that C answers that question. I don't know if I'm right and you can let me know in writing, please? Where it uses the term reimbursement in 5.2.C - the inter-agency donation, the appointing authority of the recipient requests reimbursement, that to me in itself says its after the fact, so it would only be after the time has been used that you reimburse for it, so if the leave is not used, of course the leave would go back to that employee and the money would not be transferred. I hope.

Dennis Redden, Bureau of Employment Programs: I'm strictly here for my own views and no one else. Probably more comments than anything else. The big comment Steven mentioned, I would think the bill would be for transferring sick leave to sick leave rather than annual leave. I recently had an employee who was off and is now off the payroll and I've got employees who's got multitudes days of sick leave but they only got small amounts of annual leave because they use it and you can only carry 42 days forward. So if you've got 300 days sick leave and they can't use it. I've been unable to find any state who has a leave transfer policy that uses annual leave to pay sick leave back. I've got copies here from a couple of other states of their polices, some of them has it where you can use both and put it in the pool. But I can't find any where they use strictly annual leave to use sick leave. So I know there's nothing you can do about this but maybe it can be proposed for an amendment to the legislature of something. Can I leave these with you or someone? (copies given to Tari) Okay. This guy if off the payroll now and I've got employees who's got 5 or 10 days of annual leave and I've 300 and some days and I would be willing to give as much of it as I could. It's almost making a policy that won't be used and I don't like to see that. Thank you.

Ms. Crouse: I don't show anybody else on my list. Is there anyone else here who would like to make a comment? If not, we're adjourned.

IF YOU WISH TO ADDRESS THE BOARD ON A PROPOSAL OR OTHER ITEM ON THE AGENDA, PLEASE SIGN IN.

NAME	ORGANIZATION	COMMENTS Yes	COMMENTS No
Barbara Watts	Tax Rev	✓	
Earl Hammock	Agriculture	✓	
Doug Mull	Env. Protection	✓	—
Karen Meadows	Env. Protection		✓
Elaine Hanson	"		✓
Ingrid Schwartz	DHHR		
Steve Wade	WVSEU	✓	
Chris Loda	DHHR	✓	
Linda Stamper	B.E.P.	✓	
Dennis D Redden	BEP	✓	
Shirley Hartley	DNR		✓
Rita Adkins	DCH		
John McClanahan	DCH		✓

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Barbara Watts
Department of Tax and Revenue

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

According to officials we consulted in the Department of Tax and Revenue, a leave donation is a "gift" from one employee to another, not wages paid by an employer. Consequently, no wage-based benefits (i.e. leave accrual, tenure accrual, paid holidays, etc.) come with a leave donation. By the same token, no wage-based deductions (i.e. federal income tax, state income tax, social security, retirement) are taken from the donation. Thus, the recipient of a leave donation gets the full dollar value of the donation.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Fonda Hammack
Department of Agriculture

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, but, by the same token, there are no wage-based deductions (e.g. federal income tax, state income tax, etc.) taken from the donations either. In addition, Senate Bill 158 states, "...That none of the leave ... may be used to qualify for or add to service for any retirement system...".

The draft procedures for administering the leave donation program include a provision that annual leave that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Steve Wade
West Virginia State Employees' Union

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

During the process of developing this proposed rule, we consulted with numerous individuals in other state agencies regarding aspects of the rule for which they have specific knowledge and expertise. Among these agencies were the Auditor's Office, the Department of Tax and Revenue, the Legislative Auditor's Office, agencies receiving significant amounts of federal funds (i.e. the Bureau of Employment Programs and the Department of Health and Human Resources), and the Finance Division of the Department of Administration. In addition, we also spoke with staff and reviewed policies from other states which have similar programs. The proposed rule reflects the information, advice and recommendations from these individuals.

According to information we received from the Department of Tax and Revenue, a leave donation is a "gift" from one employee to another, not wages paid by an employer. Consequently, no wage-based benefits (i.e. leave accrual, tenure accrual, etc.) come with a leave donation. By the same token, no wage-based deductions (i.e. federal income tax, state income tax, social security, retirement) are taken from the donation. Thus, the recipient of a leave donation gets the full dollar value of the donation.

The purpose of section 3.2.a., which requires employees donating leave to retain a total balance of at least 80 hours of leave, is to avoid situations in which employees' generosity may operate to their own detriment. This type of restriction is found in similar programs operating in other states and in the federal government.

Section 5.1.f., which precludes leave donations if such a donation would cause an agency to exceed its appropriation or cash balance, was added on the recommendation of the Auditor's Office. While it is not anticipated that this section will need to be used very often, it is necessary to assure that an agency is not put in a position where it cannot meet its payroll.

Finally, Senate Bill 158, which authorized the leave donation program, is very clear that the program is for donations of annual leave to **designated individuals**. There is no reference to any kind of leave bank. In addition, based on questions and comments of legislators made during consideration of the legislation in a House of Delegates sub-committee, it was apparent that the "designated individuals" language expressed the intent of the legislators.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Chris Gordon
Department of Health & Human Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The draft procedures for administering the leave donation program include a provision that annual leave that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance.

The definition of immediate family in this proposed rule is the same as is in our Administrative Rule. We do not plan to amend the definition at this time.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
MEMORANDUM

TO: Linda Stamper
Bureau of Employment Programs

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I know you have been part of the group working on the forms and procedures for the program and so I trust that your question has been addressed. However, for the record, I am pleased to provide this written response.

The draft procedures for administering the leave donation program include a provision that annual leave that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Dennis Redden
Bureau of Employment Programs

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Senate Bill 158, which authorized the leave donation program, is very clear that the program is for donations to designated individuals of **annual** leave only. I have attached a copy of Senate Bill 158 for your information.

I hope this information is helpful to you. Again, thank you for your comments.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Charles B. Felton, Director
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for committing the time to have your staff review and comment on the proposed rule for the leave donation program. I have enclosed copies of my responses to specific questions or comments made by some of your staff. Please extend my thanks also to the following of your employees who reviewed the proposed rule but did not have specific questions or comments: Kenneth Caplinger, Maxine Scarbro, Captain E. Sayres, Major W. B. Daniel, W.A. Persinger, Jr., and T. R. Stuckey.

Again, thank you.

DNR
West Virginia
Division of
Natural Resources

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Director

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M E M O R A N D U M

TO: BG (Ret) Robert L Stephens, Jr., Director
Division of Personnel

FROM: Charles B. Felton
Director

DATE: June 21, 1995

SUBJECT: Proposed Rule for Leave Donation Program

Please find enclosed copies of the various comments that I received from our employee in the Division of Natural Resources relevant to the establishment of a voluntary annual leave donation program for state employees. Generally, the overall comments seem to be supportive of this concept.

Please advise if I can provide additional assistance or information.

CBF:pbm

Attachment

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

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M E M O R A N D U M

TO: Harry Price
Executive Secretary

FROM: Kenneth K. Caplinger
Deputy Chief

DATE: June 8, 1995

SUBJECT: Comments on Proposed Leave Share Rule

==========

Director Felton recently solicited comments on the proposed leave donation rule. Parks finds no fault with the intent of the rule or the specific regulations suggested to govern the program.

Please notify me if there are questions. Thank you.

KKC:vlc

cc: Cordie Hudkins

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

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FAX (304) 558-2768	FAX (304) 558-1170	FAX (304) 558-0077	FAX (304) 558-3147	FAX (304) 558-2768	FAX (304) 558-2768	FAX (304) 558-3680	FAX (304) 558-2

MEMORANDUM TO: ***Harry Price***

FROM: ***Maxine Scarbro***

DATE: ***June 6, 1995***

SUBJECT: ***Proposed Leave Share Rule***

I have no problem with the donation of leave time. I believe it can be most helpful when needed by another employee in cases of illness, death, etc.

MS/vsh

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

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GASTON CAPERTON
Governor

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June 9, 1995

MEMORANDUM

TO: Colonel Hall

FROM: Captain Sayres ES

SUBJECT: Proposed Leave Share Rule

****

Although I received very few written comments from our field officers concerning this subject, it is my opinion that the leave donation program has been well received. Some officers have expressed in writing and verbally the desire to donate sick leave rather than annual.

I personally believe the leave donation program is an excellent idea and I have no objections to the proposed rules.

ES/rt
Attachments

June 5, 1995

MEMORANDUM TO: Colonel Richard M. Hall, Chief

FROM: Major W. B. Daniel, Assistant Chief

SUBJECT: Proposed Leave Share Rule

I concur with the Divison of Personnel proposal.

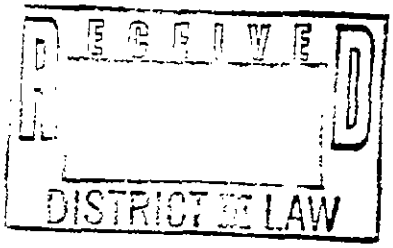
These are the only comments received.

STATE OF WEST VIRGINIA
DIVISION OF NATURAL RESOURCES
LAW ENFORCEMENT

CAPTAIN E. SAYRES,

ADOPTING THIS POLICY AT HAND CAN ONLY SERVE TO BETTER THE DNR IN EVERY ASPECT.
I AGREE WITH THIS POLICY AND SUPPORT IT.

W.A. PERSINGER JR.
CONSERVATION OFFICER



TO: HARRY PRICE
FROM: T. R. STUCKEY CONSTRUCTION OFFICER
DATE: JUNE 4, 1995
SUBJECT: PROPOSED LEAVE SHARE RULE

MR PRICE:

AFTER REVIEWING THE LEAVE DONATION PROGRAM I FEEL THIS IS A WORTHWHILE PROPOSAL. THE ELIGIBILITY, METHODS OF DONATIONS AND USE OF THE SAME ARE SPELLED OUT, SO THE PROGRAM WOULD NOT BE TAKEN ADVANTAGED OF. I FEEL IT IS A GOOD WAY OF HELPING A FELLOW EMPLOYEE IN TIME OF NEED, ALTHOUGH THE MAINTANCE OF DONATION AND LEAVE RECORDS WILL BE CRITICAL TO INSURE THIS PROGRAM RUNS AND CONTINUES TO OPERATE THE WAY IT IS INTENDED TO DO.

SINCERELY,

Thomas R. Stuckey

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Charlie,
~~Charles L.~~ Miller, P.E., Secretary
Department of Transportation

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

During the process of developing this proposed rule, we consulted with numerous individuals in other state agencies regarding aspects of the rule for which they have specific knowledge and expertise. Among these agencies were the Auditor's Office, the Department of Tax and Revenue, the Legislative Auditor's Office, agencies receiving significant amounts of federal funds (i.e. the Bureau of Employment Programs and the Department of Health and Human Resources), and the Finance Division of the Department of Administration. The proposed rule reflects the information, advice and recommendations from these agencies.

In response to your specific concern, once annual leave is earned by an employee, that accrued annual leave essentially belongs to the employee. In regard to federal funds, we have been advised that the federal grant agencies take this same view. Of course, there are specific conditions under which the accrued annual leave can be used, paid, converted to retirement service credit, used to pay insurance premiums, etc. The point, however, is that the accrued annual leave has been **earned** by the employee - i.e. it has been "used for highway purposes and operations of the Division of Motor Vehicles" in the same sense that your PERS match or PEIA employer premium have been. Therefore, it does not appear that there are any constitutional prohibitions to the transfer of funds as part of the leave donation program.

I hope this information is helpful to you. Again, thank you for your comments.

WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • 304/558-0444

Gaston Caperton
Governor

Charles L. Miller, P.E.
Secretary

MEMORANDUM

June 7. 1995

To: Robert L. Stephens, Jr.
Director, Division of Personnel

From: Charles L. Miller, P.E.
Secretary

Subject: Proposed Rule for Leave Donation Program

We have reviewed the proposed rule and note that it has the potential for some constitutional questions for agencies which are funded by dedicated funds - specifically, the Divisions of Highways and Motor Vehicles.

The State Road Fund, the fund from which the DOH and DMV receive their appropriation is a constitutional fund. Therefore, it must be used for highway purposes and operations of the Division of Motor Vehicles only and cannot be transferred. Under the proposed rule, it is our understanding that the actual dollar value of the donated leave could possibly be transferred across agency lines.

In view of the constitutional restrictions placed on the State Road Fund, it is recommended that the leave donation policy be limited to within those (DOH and DMV) agencies.

Further, it should be noted that other state agencies receive federal funds which may also be restricted. It would appear that further consideration may be necessary to adequately address the transfer of leave across agency lines.

If you would like to discuss this in more detail, please let me know.

CLM:h

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Lieutenant M. B. Pizzino
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, nor are there any wage-based deductions (e.g. federal income tax, state income tax, etc.) made from the donations.

I hope this information is helpful to you. Again, thank you for your comments.

6-6-95

TO: Capt. E.L. Sayres

FROM: Lt. M R Pizzino

SUBJECT: Proposed Leave Share Rule Comments

I believe the program is good and will be a tremendous help to someone in need. The only question I would have is who is responsible for paying income tax on the dollar value of the donated leave. I would think it would be the "recipient" but this needs to be addressed. so we will all know. Also, if I take an annual leave day now I contribute to my retirement and social security for that amount. Who contributes under the leave share program?

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
MEMORANDUM

TO: Captain K. L. Taylor
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you and your staff for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you and your staff.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, but, by the same token, there are no wage-based deductions (e.g. federal income tax, state income tax, etc.) taken from the donations either. In addition, Senate Bill 158 states, "...That none of the leave ... may be used to qualify for or add to service for any retirement system...".

In regard to employees' insurance coverage under the PEIA, I'd like to refer you to page 25 of the most recent (spring, 1995) PEIA handbook (copy attached). As you will note, an employee on an approved medical leave of absence is eligible to continue his/her insurance coverage for twelve months by paying his/her share of the premium, if any, while his/her employer continues to pay the employer's share. This is what the employee would pay if he/she were still on payroll and the leave donation program does not change these provisions.

Section 3.1 f. was intended to make employees ineligible for leave donations if they are receiving (or eligible for) compensation for lost wages through the Workers' Compensation Fund or other similar programs. This section has been modified to specifically address Workers' Compensation only since it appears that there are no other similar programs which would apply as long as an individual is employed.

The draft procedures for administering the leave donation program include a provision that annual that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance. However, since the program involves voluntary donations, not loans, there are no provisions to "pay back" donors. Of course, the potential is there for a former recipient to donate annual leave to an eligible employee who had previously donated to him/her.

I hope this information is helpful to you and your staff. Again, thank you and your staff for your comments.

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

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Wonderful West Virginia Magazine (304) 558-515. FAX (304) 558-2

MEMORANDUM

TO: Colonel Richard M. Hall

FROM: Captain K. L. Taylor K.L.T.

DATE: June 12, 1995

SUBJECT: Leave Donation Program

Below are the comments received from officers in District II:

Capt. K. L. Taylor - I feel this will be a good program to have available. I have some question on Section 4, if an employee is on leave without pay status would his/her insurance be invalid? If so, I am not in favor of being such. I feel the insurance should remain in force in the same manner as prior to the employee receiving donated leave.

Lt. B. K. Chambers - It reads like a standard policy that other agencies have. It is good to have the option. The policy is written to discourage abuse.

Sgt. J. B. Jenkins - I think this is a great program and I hope to see it in place. However I don't agree with Section 4.3 of the proposed rules. I believe the recipient should have the same benefits, as a regular employee, while using borrowed leave

C.O. Greg Chambers - I see no problem with this leave share rule as long as it is voluntary.

C.O. G.M. Willenborg - I approve of the Leave Donation Program as proposed.

C.O. Ken Winter - I have no comments on the leave program

Sgt. R. A. Wilkinson - I approve of the leave donation program as proposed.

C.O. R. G. Waybright - I support and approve of the leave donation program as proposed.

C.O. R. A. Clark, Jr. - Attached memo

C.O. J. A. Moore - Attached memo

C.O. G. L. Cook - Attached memo

MEMORANDUM

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
LAW ENFORCEMENT SECTION

TO: Capt. K.L. Taylor DATE: 06/06/95

RECEIVED
JUN 8 1995
LAW ENFORCEMENT

FROM: Sgt. Jerry A. Moore

SUBJECT: Written comments on Leave Donation Program

I have several comments to be considered on the public hearing for the proposed rule pertaining to the Leave Donation Program.

My first concern is in section 3.1 (f) "the employee must not be receiving compensation for his/her absence from work from any other source". Does this include donations from individuals or community fund drives which sometime occur to assist people in emergency situations? These donations are normally used to off set medical expenses in excess of insurance coverage.

My second concern is in section 4.3 (a) 2. I thought that the Legislative intent of the bill was to allow an employee to keep his/her employment benefits in place during a prolonged illness or recovery from an injury. The restrictions in this section remove all benefits with the exception of salary. It would seem to me that the leave days that I may donate to someone in need should be as valuable to them as they would be if they were used by me personally.

Has there been any consideration of establishing a "Pay Back System"? There may be a need to consider this. If I were the Recipient of leave donations and then returned to work, and as I accumulated leave above the 80 hour minimum, I would like the opportunity to repay the employees who had helped me in my time of need.

Please forward these comments on to the Personnel Division so they may be considered at the June 21 1995 Public Hearing on this Proposed Rule.

MEMORANDUM

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
LAW ENFORCEMENT SECTION

TO: Sgt. Moore FROM: CO Cook

RE: Proposed Annual Leave loan regulations

DATE: 06/10/95

After reading the Legislative Rules, Title 143, propogated by the Division of Personnel regarding the leave donation program, I feel that the proposed regulations does not address what the intent of the bill was.

When the Bill was originally proposed in 1993, by the Conseration Officer's Association, one of the most primary concerns was that should a worker, in this case, a Conservation Officer, become injured, even on the job, if he went on Workman's Compensation, he was placed on Leave without pay status which would effectively terminate his benefits, particularly those of Medical and Life insurance for both he and his family. This Bill was requested to protect these Benefits earned by the employee.

The same scenario goes for someone or their immediate family who is ill. If they are placed on leave without pay status, and are hospitalized or receiving medical treatment, they could lose their medical benefits and, of course, they might still be drawing salary, but that could easily be negated, should they have no medical benefits and have to pay for medical care out of their pocket. God forbid, should they pass away without life insurance or retirement to assist their family.

MEMORANDUM

To: Capt. K.L. Taylor DATE: JUNE 10, 1995

From: CO R.A. Clark, JR.

SUBJECT: Comments concerning leave donation program.

As per your request I have reviewed the proposed Leave Donation Program and I wish to make comment on a couple issues.

One of my main concerns is in section 4.3 (A-F). Under these restrictions an employee will not be receiving any employment benefits. My understanding was that when the issue on leave donation was first disgust; Is that an employee would be able to retain their employment benefits. I feel that if I were to donate leave to another employee that the employee would be receiving the same benefits as I, if I were simply on leave.

In my last comment I would like to ask if there has been any consideration made for some type of pay back system; for those who received leave donations and wish to pay back the employee(s) who gave the donations.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Norma, ~~Norma Justice~~
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Under Section 5.1., a leave donation is made at its dollar value. At the time the Legislature was considering this program, the Division of Personnel was asked to provide a fiscal note on the legislation. In that fiscal note and in testimony by my staff and others to various legislative committees it was indicated that the program would be revenue neutral because the leave donations would be treated at their dollar value.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, but, by the same token, there are no wage-based deductions (e.g. federal income tax, state income tax, etc.) taken from the donations either. In addition, Senate Bill 158 states, "...That none of the leave ... may be used to qualify for or add to service for any retirement system...".

Although we do not anticipate a significant number of inter-agency donations, we provided for this kind of donation in consideration of the number of "small" agencies within state government. In addition, we did not want to limit the ability of employees to donate to eligible friends or relatives employed in other agencies.

I hope this information is helpful to you. Again, thank you for your comments.

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

Director
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Charleston, West Virginia 25305-0660

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Governor

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June 19, 1995

MEMORANDUM TO: Harry F. Price
Executive Secretary

FROM: Norma Justice
Administrator, Staffing

SUBJECT: LEAVE DONATION PROGRAM COMMENTS

The program has been established as a dollar value program rather than a day of leave program. The bookkeeping required to keep track of the budgeted dollars transferred will be an additional cumbersome recordkeeping problem.

It would be my suggestion that a day of leave be transferred to the employee from another and the accepting employee gets a day of pay at his own daily rate for the contribution. Also, the employee receiving the donated leave be given credit for a day of employment for Tenure and Retirement purposes.

Also, it is suggested that the leave donation program be in place in each agency rather than crossing from one agency to another.

As the program is set up, it will require the following additional job responsibilities:

1 - Staffing leave program adjustments
2 - Preparing dollar calculations for payroll and DOP documentation
3 - Tracking of dollars from one agency to another
4 - Documentation and paperwork for reimbursement of personal services accounts.
5 - Reporting to Division of Personnel on leave transfers--will this be monthly, quarterly or annual?

The program will cost the agency more money in the long run because those who have sufficient leave to donate are those who have been around for years and generally have higher salaries. If a day of leave was transferred and the employee received his daily rate, it would cost the agency less.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Ramona, ~~Ramona S. Dickson~~, Comptroller
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

First, let me clarify that the leave donation program involves donations of annual leave only. In regard to sections 3.3.1.b. and c., Senate Bill 158 which authorizes the program specifies that to be eligible an employee must have a medical emergency which would "...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...".

Section 5.1.f. was added on the recommendation of the Auditor's Office. While it is not anticipated that this section will need to be used very often, it is necessary to assure that an agency is not put in a position where it cannot meet its payroll.

I hope this information is helpful to you. Again, thank you for your comments.

INTEROFFICE
MEMORANDUM

DIVISION OF NATURAL RESOURCES
Charles B. Felton, Jr., Director

TO: Harry F. Price, Executive Secretary

FROM: Ramona S. Dickson, Comptroller

RE: Proposed Leave Share Rule

DATE: June 9, 1995

As you requested, following are my comments on the proposed leave share rule.

Section 3. 3.1 b. and c.

If the transfer of sick leave is voluntary and at no expense to the State, then why do they care if I exhaust my annual leave? I agree that leaving balances of 30-45 days of annual might be excessive. But, one week of annual should be allowed to remain. What if the recipient returns to work in May and would like to take a week's vacation in July? What if the recipient was off due to parents-in-law illness, returns to work in May, the husband, children AND the recipient want and need to bond together again as a family unit with a week's vacation? What happened to the Governor's stress on "the family"?

Section 5. 5.1 f.

If appropriations are "close" then, of course, the transfer of a significant amount of leave could cause a problem. Instead of limiting the benefits to the recipient and curtailing the goodwill of the donor, let's think of some way to allow the agency access to funding specifically for this. What about the legislative "rainy day" fund? A hundred thousand or so out of 40 million would show their support for this wonderful program.

From the desk of...

Ramona S. Dickson
Comptroller
Division of Natural Resources
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0660

tel: (304)558-2791
fax: (304) 558-2768

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Captain K. L. Painter~~ Capt.
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, but, by the same token, there are no wage-based deductions (e.g. federal income tax, state income tax, etc.) taken from the donations either. In addition, the Senate Bill 158 states, "...That none of the leave ... may be used to qualify for or add to service for any retirement system...".

I hope this information is helpful to you. Again, thank you for your comments.

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

LAW ENFORCEMENT
1304 Goose Run Road
Fairmont, West Virginia 26554

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GASTON CAPERTON
Governor

Administration (304) 558-3315 FAX (304) 558-2768
Law Enforcement (304) 558-2783 FAX (304) 558-1170
Parks and Recreation (304) 558-2764 FAX (304) 558-0077
Wildlife Resources (304) 558-2771 FAX (304) 558-3147
Conservation Education and Litter Control (304) 558-3370 FAX (304) 558-2768
Public Information (304) 558-3380 FAX (304) 558-2768
Real Estate Management (304) 558-3225 FAX (304) 558-3680
Wonderful West Virginia Magazine (304) 558-9152 FAX (304) 558-2768

June 13, 1995

MEMO TO: Colonel Richard M. Hall

MEMO FROM: Captain K. L. Painter KLP

SUBJECT: Proposed Leave Share Rule

Officers of District One offered very little feedback in regards to this proposed rule.

However, the following are a few ideas, suggestions and/or comments:

4.3
Referring to Subsections c. d. and e.

Would suggest that, if at all possible, recipient of donated annual leave continue to earn tenure, increment and credit for retirement purposes while receiving such donated leave It would appear, if such recipient does not receive these benefits, they would, in essence, be getting penalized for taking such donated leave.

KLP:cj

Fax Transmittal Memo	# of Pages 3
To Col Hall	From KLPainter
Co. DNR-Law	Co. D-1
Dept.	Phone #
Fax #	Fax #

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Sheree,
~~Sheree L. Knotts~~
Division of Tourism

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Senate Bill 158, which authorized the leave donation program, is very clear that the program is for donations of annual leave only. A copy is attached.

I hope this information is helpful to you. Again, thank you for your comments.

June 2, 1995

WV Division of Personnel Office
Bldg. 6 Room 414
State Capitol Complex
Charleston, WV 25305

Dear Sirs:

I would like to offer my views on the topic of the Leave Donation program.

I understand that annual leave may be donated to another employee needing additonal leave for medical reasons. I approve of this and think it is a great idea. I would like to recommend that it not be limited to annual leave. While many employees use their annual leave they may have little or no reason to use their sick leave. This means they may have accumulated sick leave, which they would be willing to donate, but have little to donate in the way of annual. There seems to be no reason they could not donate the time they have, whether annual or sick. If they are willing to give up any time, it should be their choice. I personally would be willing to give up either, though I have more to offer with sick leave. If I can offer more by giving up my sick leave, why shouldn't I be able to? After all, the idea is to help other employees.

Thank you for the opportunity to offer my opinions.

Sincerely,

Sheree L. Knotts
WV Division of Tourism

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

M E M O R A N D U M

TO: Captain Sayres
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you and your staff for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for Sergeant Della Mea and Sergeant Goff.

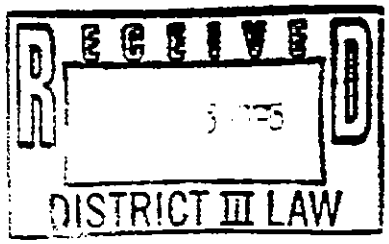
Senate Bill 158, which authorized the leave donation program, is very clear that the program is for donations of annual leave only. I have attached a copy which I hope you will share with your staff.

I hope this information is helpful to you and your staff. Again, thank you and your staff for your comments.

INTER–OFFICE MEMORANDUM
Department of Natural Resources
Division of Law

To Captain Sayre
From Sgt Della Vida
Date 6-4-95
Subject Donated leave

This is a fine program, But I would rather donate my sick leave than my annual leave.



Capt. Sayres,

After reviewing the Leave Donation letter I tend to like the idea of donating leave but if someone needs sick leave I would much prefer to give them my sick leave rather than my annual leave. I strongly disagree with donating annual rather than sick leave.

Kim S. Hall

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Captain Ben Gragg~~ Ben,
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you and your staff for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Senate Bill 158, which authorized the leave donation program, is very clear that the program is for donations to designated individuals of annual leave only. I have attached a copy which I hope you will share with your staff.

I hope this information is helpful to you and your staff. Again, thank you and your staff for your comments.

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

LAW ENFORCEMENT
2311 Ohio Avenue
Parkersburg, West Virginia 26101

TELEPHONE: (304) 420-4550 • FAX: (304) 420-4554

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GASTON CAPERTON
Governor

Administration	Law Enforcement	Parks and Recreation	Wildlife Resources	Conservation Education and Litter Control	Public Information	Real Estate Management	*Wonderful West Virginia* Magazine
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MEMORANDUM

DATE: June 12, 1995

TO: Col. Richard M. Hall

FROM: Captain Ben Gragg

REF: Proposed leave share rule

All officers feel we should have the option of donating either annual or sick leave. We also believe there should be a provision to pay back the donor if an employee wishes to.

Officer Hickman recommended a sick leave "bank" be implemented taking 1/4 day per month of sick leave or annual leave and putting it in a pool, (employees choice). Employees who have exhausted all sick and annual leave could draw from this "bank" as needed. Employees would be required to pay back leave at a predetermined rate, upon return to work.

Some of us lose a day or two of leave each year. Any leave we would lose could be put in a leave bank.

It appears to be a good plan, although it seems it could have been simplified.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Harry E. Carr~~ Harry, Jr.
Division of Highways
Department of Transportation

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The draft procedures for administering the leave donation program include a provision for the return of annual leave that is not used to donors. The unused leave will be re-credited to the donor's annual leave balance.

I hope this information is helpful to you. Again, thank you for your comments.

FORM CX-7 REV 2-1-91 OFFICE MEMORANDUM **WEST VIRGINIA DIVISION OF HIGHWAYS**

SUBJECT: May 19, 1995, Memo on Proposed Rule for Leave Donation DATE: June 9, 1995

CC- COMMISSIONER	BF- FINANCE DIVISION	HM- CHIEF ENGINEER MAINTENANCE
CA- ASSISTANT COMMISSIONER	BI- SYSTEM SERVICES DIVISION	ME- EQUIPMENT DIVISION
CB- BUSINESS MANAGER	BP- PROCUREMENT DIVISION	MH- ENFORCEMENT DIVISION
CH- STATE HIGHWAY ENGINEER	BZ- OFFICE SERVICES DIVISION	MM- MAINTENANCE DIVISION
CL- LEGAL DIVISION	HC- ENGINEERING COMPUTER SERVICES DIVISION	HS- CHIEF ENGINEER-CONSTRUCTION
CW- SPECIAL ASSISTANT FOR ADMINISTRATION	HD- CHIEF ENGINEER DEVELOPMENT	SC- CONSTRUCTION DIVISION
CZ- AUDITING DIVISION	DR- RIGHT-OF-WAY DIVISION	ST- MATERIALS CONTROL, SOIL & TESTING DIVISI
AE- EQUAL EMPLOYMENT OPPORTUNITY DIVISION	DS- STRUCTURES DIVISION	PC- PROGRAMMING DIVISION
AH- HUMAN RESOURCES DIVISION	DT- TRAFFIC ENGINEERING DIVISION	RC- CENTRAL FILES AND CORRESPONDENCE
AP- PUBLIC AFFAIRS DIVISION	DV- ROADWAY DESIGN DIVISION	RP- PLANNING & RESEARCH DIVISION
		10- DISTRICT ENGINEERS

FROM	TO	MEMORANDUM	INITIALS
	AH	Jeff Black	
DE-4		Harry E. Carr, Jr.	

As of this date, the only comments concerning the Leave Donation Rule relate to the disposal of leave if not used.

If a person donates leave time for a specific person or purpose and it is not used by them, what happens to the time or money? Is there a provision to return the unused Annual Leave to the donor?

Additional comments will be forwarded if received, and we trust all will be addressed with the Division of Personnel. HEC/ngc

cc: Robert L. Stephens, Jr. (DOP)✓
DE-4 File

Tara — Anna Che: one for our public hearing!

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Bernie Dowler~~ Bernie,
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

The draft procedures for administering the leave donation program include a provision that annual that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance.

I hope this information is helpful to you. Again, thank you for your comments.

DNR
West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

Director
State Capitol Complex
Building 3, Room 669
1900 Kanawha Boulevard, E.
Charleston, West Virginia 25305-0660

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FAX (304) 558-2768
TDD 558-1439
TDD 1-800-354-6087

GASTON CAPERTON
Governor

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M E M O R A N D U M

TO: Chuck Felton

FROM: Bernie Dowler

DATE: June 21, 1995

SUBJECT: Proposed Leave Share Rule

The following comments are offered regarding the proposed leave share rule:

(1) If an employee becomes deceased, could the deceased person's leave be made available for the use of other employees.

(2) The complexity of this rule would bring forth the issue of the need for timely approval of the use of this leave.

Generally, however, the Wildlife Resources Section would be supportive of this concept.

BFD:pbm

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Walter Smittle, III~~ Walter, State Fire Marshall
Department of Military Affairs and Public Safety

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Under Section 5.1.d., the phrase "if not the same" refers to the appointing authority of the recipient. The section basically provides a means for transmitting information regarding leave donations. The specific procedures for the program have been drafted with the cooperation of several agencies' employees who will be directly involved in administering the program in their agencies. These procedures will be distributed to agencies and payroll locations in the very near future.

Annual leave donations are made at the dollar value of the leave. If an employee makes $10 an hour and donates 8 hours of annual leave, the recipient would be paid $80 from that donation, since $80 is the value of the paid leave.

The Tax Department has advised us that annual leave donations to recipients are "gifts", not wages. Consequently, no wage-based benefits (e.g. leave accrual, tenure accrual, etc.) come with leave donations, nor are there any wage-based deductions (e.g. federal income tax, state income tax, etc.) made from the donations.

I hope this information is helpful to you. Again, thank you for your comments.

STATE OF WEST VIRGINIA

The Department of Military Affairs and Public Safety

GASTON CAPERTON, GOVERNOR

WALTER SMITTLE III
State Fire Marshal
L. DARL CROSS
Chief Deputy Fire Marshal

State Fire Marshal
State Capitol Complex
Charleston, West Virginia 25305

Phone (304) 558-2191
FAX (304) 558-2537

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

FROM: Walter Smittle III, State Fire Marshal

SUBJECT: Proposed Rule for Leave Donation Program

DATE: June 14, 1995

This office has reviewed the proposed rule for Leave Donation and have the following comment:

Rule 5.1(d) is vague on how to calculate the dollar value of donated leave. Within the rule language "if not the same" is noted. What does this relate to - the hourly rate of the employee, both donor and recipient? If so, it should be clarified. Also, what procedures will be or are established by the Director of Personnel as mentioned in Rule 5.1(d)? This should be clarified to eliminate uncertainties or unwritten rules.

Annual leave is valued and directly related to the person's salary rate. A higher paid employee donating annual leave to a lower paid employee should be charged for donation(s) made at the lower paid employees salary rate. Is this a correct interpretation?

Are benefits cost added or calculated into the dollar value of annual leave, i.e. social security?

Thank you for the opportunity to review this proposed rule.

WSIII/nlo

cc: Major General Joseph J. Skaff

Ref: 061495-1

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Richard Boyle, Jr.~~ Dick, , Director
West Virginia Lottery

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Under Section 5.1., a leave donation is made at its dollar value. At the time the Legislature was considering this program, the Division of Personnel was asked to provide a fiscal note on the legislation. In that fiscal note and in testimony by my staff and others to various legislative committees it was indicated that the program would be revenue neutral because the leave donations would be treated at their dollar value. We have attempted, and will continue to try, to make this point clear in the information we provide to managers and employees.

I hope this information is helpful to you. Again, thank you for your comments.

WEST VIRGINIA LOTTERY

Gaston Caperton
Governor

Department of
Tax and Revenue
James H. Paige III
Secretary

West Virginia Lottery
Richard E. Boyle, Jr.
Director

Lottery Commission
David H. Gardner
C. Steven Hyre
William R. Laird, IV
Rebecca B. Miller
Lawrence Pack
Robert W. Walker

312 MacCorkle Ave., S.E.
P.O. Box 2067
Charleston
West Virginia 25327-2067

Phone 304-558-0500
Fax 304-558-3321
1-800-WVA-CASH

Tara —
FYI
Steve

June 2, 1995

BG (Ret) Robert L. Stephens, Jr.
Director, Division of Personnel
Building 6, Room B-416
1900 Kanawha Boulevard, E.
Charleston WV 35305-0139

Subject: PROPOSED REGULATION FOR LEAVE DONATION PROGRAM

Dear Gen. Stephens:

I have reviewed the Division of Personnel's proposed rule dealing with the donation of earned leave from one employee to another. This letter contains my comments to your proposed rule.

The hourly rate calculation is based on the donor employee's "total annual base salary divided by 2080 hours." From that amount of money so transferred, the recipient employee's agency is to pay the recipient's salary and benefits. Therefore, if an office assistant 1 donates an hour's leave to a division director, that donation may pay for about ten minutes of the recipient's salary and benefits.

The drafter of the Rule and of the "Procedures Established by the Division of Personnel for Implementation of the Rule" should be careful to point out that the project is not intended as an hour-for-hour trade.

Sincerely,

Richard E. Boyle, Jr.
Director

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: ~~Mary Baldwin~~, Mary, Social Services Worker
Mingo County
Department of Health & Human Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

We have informally inquired of the higher education central office regarding the applicability of the leave donation program to employees of state colleges and universities. They have informed us that, in their opinion, the employees are covered by the provisions of W.V. Code §18B-9-10 ("Higher education employees' catastrophic leave bank and leave transfer."), not §29-6-27 which authorizes the Division of Personnel to establish an annual leave donation program. However, we plan to work with higher education to determine if we can agree on some kind of reciprocal arrangement which would meet the requirements of our program.

I hope this information is helpful to you. Again, thank you for your comments.

WEST VIRGINIA
DEPARTMENT OF HEALTH & HUMAN RESOURCES

Gaston Caperton
Governor

Memorandum

DATE: 6-15-95

TO: Tari McClintock Crouse,
Director of Personnel

FROM: Mary Baldwin, SSW, Mingo County

SUBJECT: Leave Donation Program

Please try to determine if colleges and universities will be covered by this same program, as personnel in this area are state employees.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

Paul,

TO: ~~Paul Benedum,~~ Environmental Resource Specialist
Solid Waste Management Section
Division of Environmental Protection

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Section 3.1.d. provides that a physician or medical practitioner must verify that the employee will be required to be absent for at least one half of a month after the employee's available leave is exhausted. Under most circumstances, however, this verification can be provided in advance of the exhaustion of the employee's available leave. If so, and if the employee were eligible and received annual leave donations, the employee may not suffer any loss of income.

Under Section 5.1., a leave donation is made at its dollar value. If you make $10 an hour and donated 8 hours of annual leave, the recipient would be paid $80 from your donation. The specific procedures for making these calculations and paying recipients have been drafted and will be sent to all agencies and payroll locations in the near future.

I hope this information is helpful to you. Again, thank you for your comments.

June 2, 1995

Robert L. Stephens, Jr., Director
West Virginia Division of Personnel
Building 6, Room B-416
1900 Kanawha Boulevard East
Charleston, WV 25305-0139
558-3950

Dear Mr. Stephens;

I wish to comment on the proposed rule (143csr2) for leave donation of West Virginia state employees.

As I read section 3.d., an employee must be absent without pay for at least one half a month before they may receive donated leave. I feel that should be eliminated so that an employee may receive donated leave upon exhaustion of all available paid leave so that the employee is not also burdened with the worry of no income while additional expenses are being incurred including possible travel and lodging expenses. I know in my case, any lose of income plus additional expenses would be a tremendous setback as I am the sole income for my family.

Under section 5.1., I am confused. The rule is not specific as to the amount of leave time donated from one person to another. If I earn $10 per hour and donate 8 hours to someone earning $5 per hour. Does that person receive 16 hours of donated time? If the rule was more specific or listed an example, there would be no need for interpretation or miscommunication between appointing authorities.

I feel that the proposed rule is a good one and would support it. However, I hope that you would consider the above suggested change.

Should you have any questions, contact me at 558-6350.

Sincerely;

Paul J Benedum

Paul Benedum
Environmental Resource Specialist
Solid Waste Management Section
1356 Hansford Street
Charleston, WV 25301

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Charles Capet, Environmental Resource Specialist
Solid Waste Management Section
Division of Environmental Protection

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Under Section 5.1., a leave donation is made at its dollar value. If you make $10 an hour and donated 5 days of annual leave, the recipient would be paid $400 from your donation, since this is the value of your paid leave. At the time the Legislature was considering this program, the Division of Personnel and others informed various legislative committees that the program would be "revenue neutral", that is, the program would neither cost nor save the state money.

I hope this information is helpful to you. Again, thank you for your comments.

DIVISION OF ENVIRONMENTAL PROTECTION
1356 Hansford Street
Charleston, WV 25301-1401

GASTON CAPERTON
GOVERNOR

Laidley Eli McCoy
DIRECTOR

June 7, 1995

Rule Two Leave Donation Program

WV Division of Personnel

If the donor make ten dollars per hour and donates five days to a recipient who make five dollars per hour.

8hr. X 5 days @ $10 per hr. = $400.00
8hr. X 5 days @ $5 per hr. = $200.00

What becomes of the $200.00 that is saved by the state. Does it get paid to the donor?

If the donor make less than the recipient and donates five days and the recipient make more per hour than the donor does, will the recipient get five full days or only the fraction of time covered by the donors salary?

Sincerely,

C Capet

Charles Capet, ERS III
Solid Waste Management Section
Office of Waste Management

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

Doug,

TO: ~~Douglas A.~~ Benson
Division of Natural Resources

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

Section 3.1 f. was intended to make employees ineligible for leave donations if they are receiving (or eligible for) compensation for lost wages through the Workers' Compensation Fund or other similar programs. This section has been modified to specifically address Workers' Compensation only since it appears that there are no other similar programs which would apply as long as an individual is employed.

The draft procedures for administering the leave donation program include a provision that annual that is not used is returned to the donor(s). The returned leave will be re-credited to the donor's annual leave balance.

I hope this information is helpful to you. Again, thank you for your comments.

Refrence the memorandum on proposed Leave Share Rule. After Reading over it I had two areas of concern first under section 3. Eligibility, subsection f. "An employee must not be receiving compensation for his/her absence from work from any other source" I am not sure weather this means an employee is not working while on sick or medical leave or would it include selling an item like a car to cover costs. Either way there would be compensation I guess the key word is "for his/her absence" I don't know what all could be covered under that.

Second concern is section 5.2, use of donated Leave, subsection d, under B. "if the recipient voluntarily request termination of the use of donated Leave." does the leave go back to the person that donated it. Or better yet, if for any reason its not given to the ~~donor~~ recipient where does it go if not used.

Douglas A. B.
7 June 95

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Larry
~~Lawrence Cousins~~, Deputy General Manager
West Virginia Parkways
Department of Transportation

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

1. Annual leave donations that can be received by an eligible employee are limited only to the period for which the employee is eligible and to the amount needed to substitute for the eligible employee's "take home pay".

2. The only provision for the return of annual leave donations covers those donations not used.

I hope this information is helpful to you. Again, thank you for your comments.

WEST VIRGINIA PARKWAYS
ECONOMIC DEVELOPMENT AND TOURISM
AUTHORITY
P. O. BOX 1469
CHARLESTON, WEST VIRGINIA 25325-1469
TELEPHONE: 304/926-1900
FAX: 304/926-1909
TDD: 800/742-6991

WILLIAM H. GAVAN
General Manager

June 7, 1995

Tari —
Questions from
Parkways on
Leave Donation —
Steve

BG (Ret) Robert L. Stephens, Jr.
Director of Personnel
West Virginia Division of Personnel
Building 6, Room B-416
1900 Kanawha Boulevard, East
Charleston, WV 25305-0139

Dear General Stephens:

The staff of the Parkways Authority has received and reviewed the proposed rule for the Leave Donation Program. The only questions we feel that may need to be included are as follows:

1. Is there a limit on the maximum number of hours a recepient may accept or be given in a specific period of time?

2. Will a recepient be required or allowed to return leave to the donor?

If we can be of any assistance, please let us know.

Sincerely,

Lawrence Cousins
Deputy General Manager

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

Patty)

TO: Patty ~~Haddy,~~ Manager
Administrative Services
Department of Tax and Revenue

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I know you have been part of the group working on the forms and procedures for the program and so I trust that your questions have been addressed. However, for the record, I am pleased to provide this written response.

1. Accrued annual leave essentially belongs to the employee who has earned it. Consequently, the question of transfering funds between agencies is moot.

2. The payment and reimbursement method in question has been used for some time now.

3. The draft procedures should address this concern.

4. We have modified section 3.1.f. to refer to compensation from the Workers' Compensation Fund only.

5. (5.1.a.) We would like to analyze data from the program in operation before we consider setting any minimum amount of donation other than the current one hour.
Section 5.1.f. was added on the recommendation of the Auditor's Office. While it is not anticipated that this section will need to be used very often, it is necessary to assure that an agency is not put in a position where it cannot meet its payroll.

6. We do not have any plans to restrict the donations of annual leave at year end.

I hope this information is helpful to you. Again, thank you for your comments.

TO: Mr. Bob Hoffman, Acting Deputy Secretary
Tax & Revenue

FROM: Patricia J. Haddy, Manager
Administrative Services

RE: Leave Donation Program

DATE: June 19, 1995

These are additional questions for the June 21, 1995 Division of Personnel hearing on the Leave Donation proposed policy submitted by Rachel.

LEAVE DONATION PROGRAM

QUESTIONS:

1. IS IT LEGAL TO TRANSFER FUNDS TO OTHER AGENCIES FOR LEAVE DONATIONS?
2. IS IT LEGAL TO PAY FROM AN APPROPRIATED ACCOUNT THEN GET THE REIMBURSEMENT LATER?
3. SECTION 3.1.d SHOULD HAVE A CLARIFICATION THAT LEAVE DONATIONS CAN BE MADE AS SOON AS DOCTOR'S STATEMENTS VERIFY THE REQUIRED ABSENCE. OTHERWISE IT COULD BE INTERPRETED TO MEAN TRANSFERS ONLY AFTER THE EXHAUSTION OF LEAVE.

4. SECTION 3.1.f SHOULD MENTION THAT A WAIVER FORM WILL BE REQUIRED. ALSO WHAT IF DISABILITY INSURANCE ULTIMATELY PAYS FOR THE REQUIRED ABSENCE.

5. SECTION 5.1(a) SHOULD HAVE A MINIMUM OF EIGHT (8) HOURS FOR DONATIONS.

SECTION 5.1(f) LIMITS DONATIONS THAT BELONG TO THE EMPLOYEE IN THE FORM OF ANNUAL LEAVE WITH A CASH VALUE.

6. WILL THERE BE A YEAR END FORMULA TO CONTROL POTENTIAL LAST MINUTE TRANSFERS OF ANNUAL LEAVE TO PREVENT LOSS OF DAYS??

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: Major ~~Jerry O. Cole~~ Jerry, OIC, Field Operations
West Virginia State Police

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

During the process of developing this proposed rule, we consulted with numerous individuals in other state agencies regarding aspects of the rule for which they have specific knowledge and expertise. Among these agencies were the Auditor's Office, the Department of Tax and Revenue, the Legislative Auditor's Office, agencies receiving significant amounts of federal funds (i.e. the Bureau of Employment Programs and the Department of Health and Human Resources), and the Finance Division of the Department of Administration. The proposed rule reflects the information, advice and recommendations from these agencies.

In response to your specific concern, the concept underlying the reimbursement for inter-agency donations is standard and long-standing in state government. It is also my understanding that the proposed rule better tracks agencies' liabilities for accrued annual leave and thus contributes to clearer financial records.

I hope this information is helpful to you. Again, thank you for your comments.

West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309-1698
Executive Office

Gaston Caperton
Governor

Colonel Thomas L. Kirk
Superintendent

June 19, 1995

Tari
FYI

MEMORANDUM

TO: BG (RET) ROBERT L. STEPHENS, JR.
DIRECTOR
WEST VIRGINIA DIVISION OF PERSONNEL

FROM: MAJOR JERRY O. COLE
OIC, FIELD OPERATIONS

RE: PROPOSED RULE FOR LEAVE DONATION PROGRAM

The above referenced rule has been reviewed by administrative staff of the West Virginia State Police. As discussed with Tari McClintock Crouse of your agency, our agency disagrees with Section 5, Subsection 5.1(e) of the proposed rule as it applies to inter-agency donations. We think the transaction should be a "wash" and not require any transfer of funds for employees paid from the general revenue fund.

JOC:pmc

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

Jeff,

TO: ~~Jeff Black,~~ Director
Human Resources Division
Department of Transportation

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

During the process of developing this proposed rule, we consulted with numerous individuals in other state agencies regarding aspects of the rule for which they have specific knowledge and expertise. Among these agencies were the Auditor's Office, the Department of Tax and Revenue, the Legislative Auditor's Office, agencies receiving significant amounts of federal funds (i.e. the Bureau of Employment Programs and the Department of Health and Human Resources), and the Finance Division of the Department of Administration. The proposed rule reflects the information, advice and recommendations from these agencies.

The information we received from the Department of Tax and Revenue (Tax) addresses your comments in regard to sections 2.3.,2.6., and 4.3. According to Tax, a leave donation is a "gift" from one employee to another, not wages paid by an employer. Consequently, no wage-based benefits (i.e. leave accrual, tenure accrual, etc.) come with a leave donation. By the same token, no wage-based deductions (i.e. federal income tax, state income tax, social security, retirement) are taken from the donation. Thus, the recipient of a leave donation gets the full dollar value of the donation.

In regard to section 3.1 b., it was not intended that an employee receiving compensation for lost wages through the Workers' Compensation Fund would be eligible for leave donations. Section 3.1.f. was intended to cover that kind of situation, and has been modified to specifically address Workers' Compensation only.

The purpose of section 3.2.a. is to avoid situations in which employees' generosity may operate to their own detriment. This type of restriction is found in similar programs operating in other states and in the federal government.

To calculate the dollar value of a leave donation, you simply multiply the number of hours donated by the donor employee's base hourly rate. For example, if an employee with a base annual salary of $21,192 ($10.19 hourly) donates 16 hours of annual leave, the dollar value of the leave donation is $163.04 (i.e. 16 x $10.19 = $163.04).

Section 5.1.f. was added on the recommendation of the Auditor's Office. While it is not anticipated that this section will need to be used very often, it is necessary to assure that an agency is not put in a position where it cannot meet its payroll.

We have modified section 5.2.b. by deleting the phrase "...the base salary of..." to further clarify the point that the donation is not wages.

We believe that the recipient eligibility requirements and the recipient status (i.e. on leave without pay) would preclude payment of donated leave once an employee returns to work. However, we will consider modifying section 5.2.d. to clarify this point. Also, although the rule does not address unused leave donations, the procedures now being drafted do. These procedures call for the return of unused leave donations, in the form of hours (or portions thereof) of annual leave to donors.

In regard to section 6 (6.2), the draft procedures outline a uniform method to be used to notify employees of an individual's eligibility to receive leave donations.

I hope this information is helpful to you. Again, thank you for your comments.

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways

Gaston Caperton
Governor

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0430 • 304/558-3505

Charles L. Miller, P.E.
Secretary

Fred VanKirk, P.E.
Commissioner
State Highway Engineer

June 21, 1995

MEMORANDUM

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

FROM: **Jeff Black, Director**
Human Resources Division

SUBJECT: **LEAVE DONATION PROGRAM**

As directed by your memorandum dated May 19, 1995, the following are comments from employees and managers in the West Virginia Department of Transportation, Division of Highways. Each comment is identified by the section number of the draft policy.

2.3. and 2.6. When calculating the dollar value the donor's agency should figure in the fringe benefits, such as specific percentages of social security and retirement.

3.1. b An employee cannot exhaust all sick leave, if on Worker's Compensation.

3.1. f. This restriction should not be in the rules. There are situations where employees are earning other incomes outside their normal jobs.

3.2. a. This restriction should not be in the rules.

4.3. a thru e. Where it says recipients do not should be changed to Recipients do. This is recommended because, if the employee donating this time used it themselves they would receive these particular benefits, therefore when they donate this time they are donating these benefits along with the time.

5.1. d. Show a sample calculation in this section.

5.1. f. If an employee wants to donate their annual leave they should not be restricted by budgetary matters. There should be a minimum and a maximum amount that can be donated.

5.2. An employee should not be on a leave of absence and on the payroll at the same time. Check with the State Auditor's office concerning this payment.

5.2. A section should be included in this procedure that explains what happens to donated annual leave that may not be used by recipient.

5.2. d. Donated leave should cease if the employee returns to duty before all is used.

Section 6. There should be a uniform procedure used by all state agencies on notification of annual leave needed by recipients.

JB:b

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

Doug,

TO: Doug ~~Koenig, Director~~
General Services Division

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

RE: Proposed Rule for Leave Donation Program

DATE: July 28, 1995

Thank you for taking the time to review and comment on the proposed rule for the leave donation program. I hope the following information clarifies the proposed rule for you.

During the process of developing this proposed rule, we consulted with numerous individuals in other state agencies regarding aspects of the rule for which they have specific knowledge and expertise. Among these agencies were the Auditor's Office, the Department of Tax and Revenue, the Legislative Auditor's Office, agencies receiving significant amounts of federal funds (i.e. the Bureau of Employment Programs and the Department of Health and Human Resources), and the Finance Division of the Department of Administration. The proposed rule reflects the information, advice and recommendations from these agencies.

The information we received from the Department of Tax and Revenue (Tax) addresses most of your comments. According the Tax, a leave donation is a "gift" from one employee to another, not wages paid by an employer. Consequently, no wage-based benefits (i.e. leave accrual, tenure accrual, etc.) come with a leave donation. By the same token, no wage-based deductions (i.e. federal income tax, state income tax, social security, retirement) are taken from the donation. Thus, the recipient of a leave donation gets the full dollar value of the donation.

Section 5 which covers methods of donations and use of donated leave is essential to the program since it addresses the process of getting recipients paid. Again, the advice of agency experts was solicited in the development of this section. Also, to ease the potential administrative burden of the program, we have been developing the forms and procedures for the program in collaboration with staff from operating agencies who will be administering the program.

I hope this information is helpful to you. Again, thank you for your comments.

1-7/3/95
Tom
FYI

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Cabinet Secretary

MEMORANDUM

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

FROM: Doug Koenig, Director
General Services Division

DATE: June 23, 1995

SUBJECT: PROPOSED RULE FOR LEAVE DONATION PROGRAM

As requested, the following comments are provided:

1. Paragraph 4.3: The law only says that the donated annual leave cannot count towards retirement, the other restrictions are unnecessary and fail to take full advantage of the value of annual leave **earned**.

2. Section 4: Various categories of status create potential for administrative errors and put the employee at a disadvantage, e.g., employee will not be able to accrue leave/sick leave.

   Recommend donated leave status which would equate to sick/annual leave in all respect save years of service towards retirement, in accordance with the law.

3. Section 5: This section creates an unnecessary administrative burden on all state agencies. Recommend you delete it in it's entirety.

4. I am not certain the intent of the legislature was to reduce the state's liability for earned leave through this program beyond the restriction that donated leave cannot be used to qualify for retirement. Therefore, I would question the additional restrictions created by this policy.

DK/dbg

WEST VIRGINIA DIVISION OF PERSONNEL
Leave Donation Program

Amendments Made To The Proposed Rule and Reasons For Those Amendments

AMENDMENT

Section 3.1.f. concerning recipient eligibility was amended as shown below by strike-throughs and underlines.

f. The employee must not be receiving or be eligible to receive compensation for his/her absence from work from ~~any other source~~ the Workers' Compensation Fund.

REASON FOR THE AMENDMENT

Section 3.1 f. was intended to make employees ineligible for leave donations if they are receiving (or eligible for) compensation for lost wages through the Workers' Compensation Fund or other similar programs. This section is modified to specifically address Workers' Compensation only since it appears that there are no other similar programs which would apply as long as an individual is employed.

AMENDMENT

Section 4. concerning recipient status was amended as shown below by strike-throughs.

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.

REASON FOR THE AMENDMENT

According to officials with the Department of Tax and Revenue, leave donations are a "gift" from one employee to another and not wages paid by an employer. The amendment, therefore, deletes reference to "receipt of salary".

AMENDMENT

Section 5.1.e. regarding inter-agency donations was amended as shown below by strike-throughs.

5.1. Method of Donations

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.

REASON FOR THE AMENDMENT

The term "personal services" is deleted since reimbursement specifically to a personal services account may not be necessary or, in some cases, possible. We are working with the Auditor's Office to clarify this issue and will include specific instructions in procedures we establish.

AMENDMENT

Section 5.1.f. regarding restrictions on inter-agency donations was amended as shown below by strike-throughs and underlines.

5.1. Method of Donations

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~~ donation is paid to exceed its appropriation or cash balance.

REASON FOR THE AMENDMENT

This amendment is a correction.

AMENDMENT

Section 5.2.d. regarding use of donated leave was amended as shown below by strike-throughs and underlines.

5.2. Use of Donated Leave

b. The appointing authority of a recipient of donated leave continues to pay ~~the base salary of~~ the recipient, according to procedures established by the Director of Personnel, as long as there is a positive balance of the total dollar value of all leave donated to the recipient.

REASON FOR THE AMENDMENT

Again, according to officials with the Department of Tax and Revenue, leave donations are a "gift" from one employee to another and not wages paid by an employer. The amendment, therefore, deletes reference to "salary" and specifies that appointing authorities pay according to procedures we establish. In addition, it is clarified that there must be a "positive" balance of leave donations.

Gaston Caperton
Governor

Robert L. Stephens, Jr.
Director

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

MEMORANDUM

TO: All Cabinet Secretaries, Bureau Commissioners, Agency Heads and Payroll Locations

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

RE: Leave Donation Program

DATE: August 18, 1995

I have enclosed the following materials related to the leave donation program: a copy of the agency-approved proposed rule which was filed with the Secretary of State and the Legislative Rule-Making Review Committee on July 31, 1995; a copy of the procedures developed to administer the program; and, a set of forms to be used for the program which you are free to duplicate as needed.

The State Personnel Board has approved the leave donation program as a pilot program until the agency-approved proposed rule can be acted on by the legislature in its next regular session. The provisions of the pilot program are the same as those detailed in the agency-approved proposed rule and reflect changes and/or clarifications made to the initial draft of the rule based on written and oral comments received during the public comment period.

During the process of developing the rule and procedures, we consulted with numerous individuals in other state agencies regarding aspects of the rule and procedures for which they have specific knowledge and expertise. We are greatly indebted to these individuals for the information, advice and recommendations they provided.

Please make this information regarding the leave donation program available within your organization. If you have questions, please call the Division of Personnel at 558-3950. Thank you.

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 or be eligible to receive compensation for his/her absence from work from the Workers' Compensation Fund.

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 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 as well as 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 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 donation 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 recipient, according to procedures established by the Director of Personnel, as long as there is a positive 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.

SPECIAL NOTICE REGARDING

RECIPIENT ELIGIBILITY

Pages 3 and 6 of the procedures for the leave donation program contain the following statement:

> Please note that the earliest date a recipient employee can be eligible to receive leave donations is either the date the APPLICATION TO RECEIVE DONATED LEAVE is received by the agency or the date all leave available to the recipient employee is exhausted, whichever is later.

Because the APPLICATION TO RECEIVE DONATED LEAVE form was not available until now, this statement does NOT apply to eligible individuals whose leave was exhausted on or after June 6, 1995 through August 25, 1995. However, this statement will apply to recipient employees beginning August 26, 1995.

All payments of leave donations for the period of June 6, 1995 through August 25, 1995 must conform to the procedures established to administer the leave donation program as well as any other requirements regarding such payments.

WEST VIRGINIA DIVISION OF PERSONNEL
LEAVE DONATION PROGRAM

Procedures and Forms

Introduction

The procedures and forms detailed as follows are provided as specified in the rule for the leave donation program (143CSR2). These procedures and forms may be changed from time to time as the need arises.

Procedures

1. Applying To Receive Donated Leave

An employee who thinks he/she may be eligible for leave donations must first:

- complete Part I (Applicant Information) of the form titled APPLICATION TO RECEIVE DONATED LEAVE (Appendix A); and,

- have their physician or medical practitioner complete Part III of the same form. If the employee is applying to receive donated leave to care for an ill or injured member of their immediate family, the physician or medical practitioner for the family member completes Part III.

If the employee, because of his/her medical condition, is unable to complete the application him/herself, it may be completed by an immediate family member or the appointing authority. Item 10, however, is optional and, if completed, can only be completed by the employee.

Once both Parts I and III have been completed, the employee must:

- submit the APPLICATION TO RECEIVE DONATED LEAVE to his/her immediate supervisor or the person responsible for keeping his/her leave records.

2. Processing the APPLICATION TO RECEIVE DONATED LEAVE

When an APPLICATION TO RECEIVE DONATED LEAVE is received by an agency:

- the form should be forwarded immediately to the person responsible for keeping the applicant's leave records.

The person responsible for keeping the applicant's leave records, should:

- make sure Parts I and III are complete (if not, return to the applicant for completion), then

- complete Part II of the APPLICATION TO RECEIVE DONATED LEAVE as follows.

  - Item 1. Determine if the employee receives leave as a benefit of employment. If the employee does NOT receive leave as a benefit of employment (for example, if they are a student exempt employee, 90-day exempt employee, contract employee, etc.) or if the employee leave benefits are conditional (i.e. if the employee is an intermittent or 6-month temporary employee), mark item 1 "NO" and go to item 6. If the employee does receive leave as a benefit of employment, mark item 1 "YES" and go to item 2.

▶ Item 2. Determine if the employee is receiving or eligible to receive Workers' Compensation benefits for his/her absence. If so, mark item 2 "YES" and go to item 6. If not, mark item 2 "NO" and go to item 3.

▶ Item 3. Indicate the date the employee's leave available for this absence was or will be exhausted. In the case of the employee's own illness or injury, all sick leave and all annual leave must be exhausted. In the case of the employee's absence to care for a member of his/her immediate family, all of the employee's annual leave must be exhausted and the forty hours sick leave allowed for immediate family members must be exhausted.

▶ Item 4. Using the information from Part III, 5 or 5a, indicate how long the employee is expected to be absent from work. If the employee's expected return date is less than one-half a month from the date the employee's available leave was or will be exhausted, go to item 6. Otherwise, go to item 5.

▶ Item 5. Indicate whether the absence is for the employee or the employee's immediate family member.

▶ Item 6. Indicate whether or not the employee is eligible to receive donated leave.

Mark "ELIGIBLE" if:

- ▶ the response to item 1 is "YES"; and,
- ▶ the response to item 2 is "NO"; and,
- ▶ the employee's available leave was or will be exhausted at least one-half a month or more before the employee's expected return date.

Then go to item 7.

Mark "NOT ELIGIBLE" if:

- ▶ the response to item 1 is "NO"; or,
- ▶ the response to item 2 is "YES"; or,
- ▶ the employee is expected to return to work less than one-half a month after his/her available leave is exhausted.

Then go to item 6a.

▶ Item 6a. Indicate the reason the applicant is "NOT ELIGIBLE". The reason will be one of the following.

- ▶ Does not receive leave as a condition of employment. OR
- ▶ Is receiving or eligible to receive Workers' Compensation benefits for this absence. OR
- ▶ The absence will not result in the loss of at least one-half a month of pay.

▶ Item 7. Indicate the FIMS account information for the recipient (see page 7, number 9 "FIMS Account Information").

▶ Item 8. Sign and print or type your name.

▶ Item 9. Indicate the date you completed Part II.

▶ Item 10. Indicate your "working" title -- e.g. Timekeeper, Payroll Supervisor, Office Manager, etc.

▶ Item 11. Indicate your work phone number.

Once Part II of the APPLICATION TO RECEIVE DONATED LEAVE is completed, either:

- forward a copy of the completed APPLICATION TO RECEIVE DONATED LEAVE to the person in your agency responsible for preparing the NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS (Appendix B) if the employee is eligible; or

- return a copy of the completed APPLICATION TO RECEIVE DONATED LEAVE to the employee if the employee is NOT eligible.

Please note that the earliest date a recipient employee can be eligible to receive leave donations is either the date the APPLICATION TO RECEIVE DONATED LEAVE is received by the agency or the date all leave available to the recipient employee is exhausted, whichever is later.

3. Completing the NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS

The NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS is completed and distributed by the appointing authority to advise interested employees that a fellow employee is in need of and eligible for leave donations. This notice may be copied as is on your agency's letterhead or you may wish to create a word processing document in which you can insert the necessary information. All information required for the notice is available from the APPLICATION TO RECEIVE DONATED LEAVE. Remember, the additional information (Part I, item 10), if any, must be published exactly as the employee has written it.

Once the NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS is completed, it must be signed by the appointing authority or his/her designee.

The signed notice (or an electronic equivalent/facsimile) must be made available to other employees within the agency (i.e. the organizational level immediately below a department or bureau) of the employee in a manner deemed appropriate by the appointing authority. The appointing authority, at his/her discretion, may make the notice (or an electronic equivalent/facsimile) available to other agencies and/or departments or bureaus. An appointing authority may, but is not required to, make notices from other agencies and/or departments or bureaus available to employees within his/her agency.

4. Applying to donate annual leave

An employee who wishes to make a voluntary donation of annual leave to a designated eligible employee must:

- complete Part I of the APPLICATION TO DONATE ANNUAL LEAVE (Appendix C) (please note that items 4 and/or 5 should be completed only if applicable); and

- submit the APPLICATION TO DONATE ANNUAL LEAVE to the person responsible for keeping his/her leave records.

5. Processing the APPLICATION TO DONATE ANNUAL LEAVE

The person responsible for keeping the donor applicant's leave records should:

- make sure Part I is complete and signed (if not, return to the applicant for completion); then

- complete Part II of the APPLICATION TO DONATE ANNUAL LEAVE as follows.

  - Item 1a. Subtract the amount of the annual leave donation (Part I, 6) from the donor applicant's current balance of unused annual leave. (NOTE: If the amount of the annual leave donation exceeds the donor applicant's current balance of unused annual

leave, return the form to the employee noting his/her current balance of unused annual leave.) Indicate the amount of unused annual leave remaining after the amount of the annual leave donation is subtracted.

▶ Item 1b. Indicate the donor applicant's current balance of unused sick leave.

▶ Item 1c. Indicate the donor applicant's total amount of unused leave (i.e. 1a + 1b). If this total is less than 80 hours, go to item 3.

▶ Item 2. If the leave donation is being made to an employee paid from a different account than the donor, indicate whether or not funds are available to make the donation.

▶ Item 3. Indicate whether or not the employee is eligible to make the leave donation.
Mark ELIGIBLE if:
- ▶ the donor applicant's TOTAL remaining leave balance after deducting the leave donation is at least 80 hours; AND
- ▶ if the donation is inter-agency and there are sufficient funds available to make the donation.

Then go to item 4.

Mark NOT ELIGIBLE if:
- ▶ the donor applicant's TOTAL remaining leave balance after deducting the leave donation is less than 80 hours; OR
- ▶ if the leave donation is inter-agency and there are NOT sufficient funds to make the donation.

Then go to item 3a.

▶ Item 3a. Indicate the reason the donor applicant is "NOT ELIGIBLE". The reason will be one of the following.
- ▶ The balance of total leave remaining after the leave donation is subtracted is less than 80 hours. OR
- ▶ The donation would be inter-agency and the donor's agency does not have sufficient funds to make the donation.

▶ Item 4. Indicate the donor's hourly rate of pay. This rate is calculated by dividing the donor's base annual salary (i.e. without increment) by the number of hours in a work year. Generally, this will be 2,080 hours for a full time employee with a 40 hour/week work schedule. For a part-time employee, the calculation should be done on a pro rata basis in proportion to the regular full time schedule in his/her agency.

▶ Item 5. Indicate the dollar value of the leave donation. This value is calculated by multiplying the total number of annual leave hours donated by the donor's hourly rate of pay.

▶ Item 6. Indicate the FIMS account information for the donor (see page 7, number 9 "FIMS Account Information").

▶ Item 7. Sign and print or type your name.

▶ Item 8. Indicate the date you completed Part II.

▶ Item 9. Indicate your "working" title --- e.g. Timekeeper, Payroll Supervisor, Office Manager, etc.

▶ Item 10. Indicate your work phone number.

Once Part II of the APPLICATION TO DONATE ANNUAL LEAVE is completed, either:

- return a copy of the APPLICATION TO DONATE ANNUAL LEAVE to the donor applicant if the employee is NOT eligible; or

- if the donor applicant is eligible **and** is paid from the same account as the designated recipient, forward a copy of the APPLICATION TO DONATE ANNUAL LEAVE to the person in your agency responsible for payroll; or

- if the donor applicant is eligible **but is NOT** paid from the same account as the designated recipient, complete Part I of the INTER-AGENCY DONATION FORM (Appendix D) as follows.

  - Item 1. Indicate the name of the agency employing the donor.

  - Item 2. Indicate the name of the section within the agency employing the donor, if applicable.

  - Item 3. Indicate the name of the unit within the section within the agency employing the donor, if applicable.

  - Item 4. Indicate the FIMS account information for the donor (see page 7, number 9 "FIMS Account Information").

  - Item 5. Indicate the total dollar amount of the leave donation (LEAVE DONATION FORM, Part II, item 5).

  - Item 6. Sign **and** print or type your name.

  - Item 7. Indicate your work phone number.

  - Item 8. Indicate the name of the agency employing the recipient.

  - Item 9. Indicate the name of the section within the agency employing the recipient, if known and/or applicable.

  - Item 10. Indicate the name of the unit within the section within the agency employing the recipient, if known and/or applicable.

  - Item 11. Indicate the name of the recipient.

- Once Part I of the INTER-AGENCY DONATION FORM is completed, send it to the recipient's agency payroll office.

6. Paying recipients of donated leave

Donated leave is a "gift" from the donor employee to the recipient employee. It is NOT wages. Consequently, no wage-based deductions are taken from leave donations. However, since the object of the leave donation program is to substitute the donations for lost wages, net (or "take-home") pay is used as the basis for paying recipients.

As you receive approved APPLICATIONS TO DONATE ANNUAL LEAVE or INTER-AGENCY DONATION FORMS, we recommend that you keep a ledger for each recipient that shows all donations received and payments made. An example is included as Appendix E. Donations should be used in the order received (earliest to latest) from within the agency **FIRST**, then in the order received from outside the agency.

Once you have received approved leave donations for an eligible recipient employee, you should:

- calculate the recipient employee's "net pay" for a regular payperiod (i.e. one-half a month). Using figures from the last complete payperiod the employee worked, take the amounts deducted for the employee for federal income tax, state income tax, social security, and state retirement and subtract them from the employee's gross half-monthly wages. [i.e. Gross Pay - (FIT + SIT + FICA + PERS/TRS) = Net Pay]

- determine if there are donations equal to (or greater than) the recipient employee's net pay for a half-month (or portion of a half-month if the employee's eligibility begins prior to the end of a payperiod). If so, pay an amount equal to the recipient's net pay (or portion thereof) as follows (see page 7, number 9 "FIMS Account Information"):

    - prepare a transmittal as if you were paying an invoice, noting in the comments section that the payment is for donated leave;

    - pay from an unclassified account (099) in an appropriate fund, using object code 051 (miscellaneous);

    - attach a copy of the approved APPLICATION TO RECEIVE DONATED LEAVE;

    - process your transmittal so that the payment to the recipient will coincide as closely as possible with regular paydays

Please note that the earliest date a recipient employee can be eligible to receive leave donations is either the date the APPLICATION TO RECEIVE DONATED LEAVE is received by the agency or the date all leave available to the recipient employee is exhausted, whichever is later.

If the recipient has been paid from inter-agency leave donations, request reimbursement from the donor employee's agency as follows.

- Complete Part II of the INTER-AGENCY DONATION FORM as follows.

    - Item 1. Indicate the date the leave donation was paid to the designated recipient.

    - Item 2. Indicate the amount of leave donation that was paid to the designated recipient.

    - Item 3. Indicate the FIMS account information for the recipient (see page 7, number 9 "FIMS Account Information"), including the FIMS transaction number.

    - Item 4. Sign and print or type your name.

    - Item 5. Indicate your work phone number.

- Send the INTER-AGENCY DONATION FORM to the contact person in the donor's agency (Part I, item 6).

When you receive an INTER-AGENCY DONATION FORM requesting reimbursement, process an expense-to-expense transfer using appropriate FIMS account information (see page 7, number 9 "FIMS Account Information") and attaching a copy of the INTER-AGENCY DONATION FORM.

7. Returning and Re-crediting Unused Leave Donations

If, for whatever reason, more leave is donated to a recipient than the recipient needs or is eligible to use, that excess leave donation should be returned to the donor(s) and re-credited to his/her (their) annual leave balance(s) as follows.

- If the leave donation is inter-agency (i.e. the recipient and the donor are paid from different funds), notify the contact person in the donor's agency of the dollar balance of the leave donation which was/will not be used by completing Part III of the INTER-AGENCY DONATION FORM.

- If the recipient and the donor are paid from the same fund or if you have received notice that an inter-agency donation will not be used (either in whole or in part):

  - determine the amount of the unused leave donation in hours by dividing the unused dollar amount of the leave donation by the hourly rate of the donor;

  - re-credit the number of hours of unused leave donation to the annual leave balance of the donor; and,

  - notify the donor of the amount of unused leave donation re-credited to his/her annual leave balance.

8. Documenting and Reporting Leave Donations

The Division of Personnel is required to report to the joint committee on government and finance annually on the status of the leave donation program. This report will be based on information provided by agencies' appointing authorities as follows.

- Each appointing authority or designee should send copies of all completed INTER-AGENCY DONATION FORMS (i.e. with reimbursement requested) and all APPLICATIONS TO DONATE ANNUAL LEAVE and APPLICATIONS TO RECEIVE DONATED LEAVE **originating** within his/her agency, even if the donor or recipient is not eligible.

- Copies should be sent quarterly, within two weeks after the end of each quarter (i.e. by January 14, April 14, July 14, and October 14), to:

  Employee Communications Section
  Division of Personnel
  Building 6, Room 416
  1900 Kanawha Boulevard, East
  Charleston, West Virginia 25305-0139

9. FIMS Account Information

Certain funds are not eligible sources of payment for leave donations or reimbursement for inter-agency leave donations. Generally, these are single purpose fund sources which are defined by statute or for which the Budget Bill specifies eligible expenditures from the appropriation. These include: current expenses; equipment; repairs and alterations; any capital outlay appropriation; buildings (construction or reconstruction); land purchases; debt service; and, any special revenue fund that is single purpose. Questions regarding the eligibility of a fund as a source of reimbursement for leave donations should be directed to the Auditor's Office.

Payment of leave donations to recipients should be made from the unclassified account (099) of the fund and org to which the recipient's position is allocated, using the miscellaneous object code (051). Any exceptions should be noted by attachment to the transmittal cover sheet.

For reimbursement of inter-agency donations (i.e. the donor and recipient are paid from different funds/operating accounts), the reimbursement should be made from either the personal services or unclassified account of the fund and org to which the donor's position is allocated, using the appropriate reimbursement object code. Any exceptions should be noted by attachment to the expense-to-expense cover sheet.

WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

APPLICATION TO RECEIVE DONATED LEAVE

PART I – Applicant Information: To be completed by the applicant or designee.

PLEASE PRINT OR TYPE

1. Name:	2. Social Security Number:

3. Agency:	4. Section:	5. Unit:

6. Work Phone:	7. Home Phone:

8. Reason for Request: ☐ Personal Medical Condition ☐ Medical Condition of Immediate Family Member

8a. Work-related? ☐ Yes ☐ No

8b. Relationship: _____

The reason for the request must be verified by the physician or medical practitioner treating the individual with the medical condition. The physician or medical practitioner must provide all of the information requested on the back of this form (PART III) and he/she must sign and date the form.

9. In applying for leave donations, I agree to have the following information published: my name, the agency I work for, the reason for my request, my last day at work, the date my leave available for this absence was or will be exhausted, and the expected duration of my absence.

9a. Signature: _____

9b. Date: _____

9c. Completed by: ☐ Applicant ☐ Designee (specify): _____

10. **OPTIONAL: TO BE COMPLETED ONLY BY THE APPLICANT.** As part of my application for leave donations, I further request that you also publish the following information regarding my medical emergency exactly as I have written it in the space below.

10a. Signature: _____ 10b. Date: _____

PART II – To be completed by the applicant's Appointing Authority or designee.

1. Does the applicant receive annual and sick leave as a benefit of employment? ☐ Yes ☐ No

2. Is the applicant eligible to receive Workers' Compensation benefits for this absence? ☐ Yes ☐ No

3. The applicant's leave available for this absence was/will be exhausted on (date): _____.

4. The applicant, according to the information provided in **PART III**, is expected to be absent from work until (date): _____.

5. The leave of absence is: ☐ Medical (Self) ☐ Personal (Immediate Family)

6. The applicant is: ☐ **ELIGIBLE** to receive the leave donation.

QUESTIONS? Please call the person named in item 8.

☐ **NOT ELIGIBLE** to receive the leave donation.

6a. **REASON:**

7. FIMS account information for recipient: _____

8. Certified by: _____ 9. Date: _____

10. Title: _____ 11. Phone: _____

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WV DIVISION OF PERSONNEL — LEAVE DONATION PROGRAM

PART III – To be completed by patient's physician or medical practitioner.

The employee named in Part I, 1 has applied to receive donations of annual leave through the Leave Donation Program established by the West Virginia Division of Personnel. You are requested to complete the information below for your patient, either the named employee or a member of the named employee's immediate family. If your patient is the named employee, please complete items 1, 2, 3, 4a, 5a, 6, 7, 8, and 9. If your patient is a member of the named employee's immediate family, please complete items 1, 2, 3, 4b, 5b, and 9.

PLEASE PRINT OR TYPE

1. Patient's name:

2. Most recent date of examination:

3. The patient is/was: ☐ Under My Professional Care **FROM** **TO**

☐ Hospitalized **FROM** **TO**

4. The patient is:

☐ **4a. EMPLOYEE**

The patient has been incapacitated from performing his/her job duties

FROM **TO**

☐ **4b. FAMILY MEMBER OF EMPLOYEE**

The absence of the named employee from work has been necessitated by the medical condition of the patient

FROM **TO**

5. Return to duty information:

5a. The patient has resumed or may resume **full duty employment**, with no restrictions on work activities beginning (date):

_____

5b. The patient will no longer need the care/attendance of the named employee which would require the absence of the named employee from work beginning (date):

_____

[NOTE: Please give a date, even if it is approximate. As an alternative, you may give the date you will next evaluate the patient's condition.]

6. If the patient is not able to return to full duty employment, can the patient return to work at less than full duty?

☐ No ☐ Yes If yes, period of partial incapacity? **FROM** **TO**

7. Describe in detail any limitations or restrictions on the ability of the employee to work. Please list any assistive devices or equipment or any other type of accommodation the employee requires to perform his/her job duties.

8. Will this illness or injury **permanently** prevent the employee from returning to work?

☐ Yes ☐ No

9. **PHYSICIAN'S OR PRACTITIONER'S NAME:** _____

ADDRESS: _____ **PHONE:** _____

SIGNATURE: _____ **DATE:** _____

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WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

[YOUR AGENCY'S LETTERHEAD]

NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS

_____, an employee of the _____,
(applicant's name) (agency, section, unit)

is eligible to receive voluntary donations of annual leave. _____ has
(applicant's name)

been absent from work since _____, and his/her available leave was
(last day of work)

or will be exhausted on _____. _____'s
(last day of pay) (applicant's name)

absence is due to
- ☐ his/her own illness or injury
- ☐ the illness or injury of his/her _____
(relationship)

and he/she is expected to be be off work until _____.
(expected date of return)

_____ has requested that the following additional information be pub-
(applicant's name)

lished with this notice.

Any employee wishing to make a voluntary donation of annual leave to _____
(applicant's name)

should complete a Leave Donation Application and submit it to the individual responsible for keeping leave records in his/her work unit.

_____ _____

SIGNATURE OF APPOINTING AUTHORITY **DATE**

7/95

WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

APPLICATION TO DONATE ANNUAL LEAVE

In accordance with W.V. Code § 29-6-27 and 143CSR2, I am applying to make a voluntary donation of annual leave as indicated below.

PLEASE PRINT OR TYPE

PART I – Applicant Information: To be completed by the applicant.

1. Name:		2. Social Security Number:
3. Agency:	4. Section:	5. Unit:
6. Total hours of annual leave applying to donate:		
7. Designated recipient's name:		
8. Designated recipient's agency:		
9. Applicant's signature:		10. Date:

PART II – To Be Completed By The Applicant's Appointing Authority or Designee.

1. Applicant's balance of leave remaining after deducting the leave donation: 1a. Annual Leave	1b. Sick Leave	1c. Total
2. If this is an inter-agency donation, are there sufficient funds available to make this donation? ❒ Yes ❒ No		
3. The applicant is: ❒ **ELIGIBLE** to make the indicated leave donation. ❒ **NOT ELIGIBLE** to make the indicated leave donation. 3a. **REASON:** **QUESTIONS? Please call the person named in item 7.**		
4. Donor's hourly rate of pay:		
5. Dollar value of leave donated (i.e., total leave donated multiplied by donor's hourly rate of pay):		
6. FIMS account information for donor:		
7. Certified by:		8. Date:
9. Title:		10. Phone:

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WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

INTER-AGENCY DONATION FORM

PART I – Notification of inter-agency leave donation.

FROM:

1. Agency:	2. Section:	3. Unit:
4. FIMS Account Number (for Donor):	5. Total Dollar Amount of Leave Donation:	
6. Contact Person:	7. Phone:	

TO:

8. Agency:	9. Section:	10. Unit:
11. Name of Recipient:		

PART II – Request for reimbursement.

In accordance with the information provided above, the specified dollar amount of leave donation was paid to the designated recipient on _____ (date). Please provide reimbursement as follows:

2. Amount: _____

3. FIMS Account Information: _____

FIMS Transaction Number: _____

4. Contact Person:	5. Phone:

PART III – Notification of Return of Unused Annual Leave Donation.

1. $_____ of this leave donation will not be used. Please recredit the appropriate amount of annual leave hours to the donor's annual leave balance.

2. Contact Person:	3. Phone:

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LEAVE DONATION PROGRAM

Summary of Donations and Payments

Recipient's Name _____ Date Eligible _____

Donations From Within Agency

Donor ID	$ Value of Donation	Date Donated	Date Used	$ Amount Used

Donations From Other Agencies

Donor Agency	$ Value of Donation	Date Donated	Date Used	$ Amount Used

Payments to Recipient

Payment Identification	Date Paid	Amount Paid

WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

APPLICATION TO RECEIVE DONATED LEAVE

PART I – Applicant Information: To be completed by the applicant or designee.

PLEASE PRINT OR TYPE

1. Name:	2. Social Security Number:
3. Agency:	4. Section: / 5. Unit:
6. Work Phone:	7. Home Phone:

8. Reason for Request: ☐ Personal Medical Condition ☐ Medical Condition of Immediate Family Member

8a. Work-related? ☐ Yes ☐ No

8b. Relationship: _____

The reason for the request must be verified by the physician or medical practitioner treating the individual with the medical condition. The physician or medical practitioner must provide all of the information requested on the back of this form (PART III) and he/she must sign and date the form.

9. In applying for leave donations, I agree to have the following information published: my name, the agency I work for, the reason for my request, my last day at work, the date my leave available for this absence was or will be exhausted, and the expected duration of my absence.

9a. Signature: _____

9b. Date: _____

9c. Completed by: ☐ Applicant ☐ Designee (specify): _____

10. **OPTIONAL: TO BE COMPLETED ONLY BY THE APPLICANT.** As part of my application for leave donations, I further request that you also publish the following information regarding my medical emergency exactly as I have written it in the space below.

10a. Signature: _____ 10b. Date: _____

PART II – To be completed by the applicant's Appointing Authority or designee.

1. Does the applicant receive annual and sick leave as a benefit of employment? ☐ Yes ☐ No

2. Is the applicant eligible to receive Workers' Compensation benefits for this absence? ☐ Yes ☐ No

3. The applicant's leave available for this absence was/will be exhausted on (date): _____.

4. The applicant, according to the information provided in **PART III**, is expected to be absent from work until (date): _____.

5. The leave of absence is: ☐ Medical (Self) ☐ Personal (Immediate Family)

6. The applicant is: ☐ **ELIGIBLE** to receive the leave donation.

☐ **NOT ELIGIBLE** to receive the leave donation.

6a. **REASON:**

QUESTIONS? Please call the person named in item 8.

7. FIMS account information for recipient: _____

8. Certified by: _____ 9. Date: _____

10. Title: _____ 11. Phone: _____

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WV DIVISION OF PERSONNEL — LEAVE DONATION PROGRAM

PART III – To be completed by patient's physician or medical practitioner.

The employee named in Part I, 1 has applied to receive donations of annual leave through the Leave Donation Program established by the West Virginia Division of Personnel. You are requested to complete the information below for your patient, either the named employee or a member of the named employee's immediate family. If your patient is the named employee, please complete items 1, 2, 3, 4a, 5a, 6, 7, 8, and 9. If your patient is a member of the named employee's immediate family, please complete items 1, 2, 3, 4b, 5b, and 9.

PLEASE PRINT OR TYPE

1. Patient's name:

2. Most recent date of examination:

3. The patient is/was: ☐ Under My Professional Care **FROM** **TO**

☐ Hospitalized **FROM** **TO**

4. The patient is:

☐ **4a. EMPLOYEE**

The patient has been incapacitated from performing his/her job duties

FROM **TO**

☐ **4b. FAMILY MEMBER OF EMPLOYEE**

The absence of the named employee from work has been necessitated by the medical condition of the patient

FROM **TO**

5. Return to duty information:

5a. The patient has resumed or may resume **full duty employment**, with no restrictions on work activities beginning (date):

5b. The patient will no longer need the care/attendance of the named employee which would require the absence of the named employee from work beginning (date):

[NOTE: Please give a date, even if it is approximate. As an alternative, you may give the date you will next evaluate the patient's condition.]

6. If the patient is not able to return to full duty employment, can the patient return to work at less than full duty?

☐ No ☐ Yes If yes, period of partial incapacity: **FROM** **TO**

7. Describe in detail any limitations or restrictions on the ability of the employee to work. Please list any assistive devices or equipment or any other type of accommodation the employee requires to perform his/her job duties.

8. Will this illness or injury **permanently** prevent the employee from returning to work?

☐ Yes ☐ No

9. **PHYSICIAN'S OR PRACTITIONER'S NAME:** _____

ADDRESS: _____ **PHONE:** _____

SIGNATURE: _____ **DATE:** _____

WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

[YOUR AGENCY'S LETTERHEAD]

NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS

_____, an employee of the _____,
(applicant's name) (agency, section, unit)

is eligible to receive voluntary donations of annual leave. _____ has
(applicant's name)

been absent from work since _____, and his/her available leave was
(last day of work)

or will be exhausted on _____. _____'s
(last day of pay) (applicant's name)

absence is due to ☐ his/her own illness or injury
☐ the illness or injury of his/her _____
(relationship)

and he/she is expected to be be off work until _____.
(expected date of return)

_____ has requested that the following additional information be pub-
(applicant's name)

lished with this notice.

Any employee wishing to make a voluntary donation of annual leave to _____
(applicant's name)

should complete a Leave Donation Application and submit it to the individual responsible for keeping

leave records in his/her work unit.

_____ _____

SIGNATURE OF APPOINTING AUTHORITY **DATE**

7/95

WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

APPLICATION TO DONATE ANNUAL LEAVE

In accordance with W.V. Code § 29-6-27 and 143CSR2, I am applying to make a voluntary donation of annual leave as indicated below.

PLEASE PRINT OR TYPE

PART I – Applicant Information: To be completed by the applicant.

1. Name:		2. Social Security Number:
3. Agency:	4. Section:	5. Unit:
6. Total hours of annual leave applying to donate:		
7. Designated recipient's name:		
8. Designated recipient's agency:		
9. Applicant's signature:		10. Date:

PART II – To Be Completed By The Applicant's Appointing Authority or Designee.

1. Applicant's balance of leave remaining after deducting the leave donation: 1a. Annual Leave	1b. Sick Leave	1c. Total
2. If this is an inter-agency donation, are there sufficient funds available to make this donation? ☐ Yes ☐ No		
3. The applicant is: ☐ **ELIGIBLE** to make the indicated leave donation. ☐ **NOT ELIGIBLE** to make the indicated leave donation. 3a. **REASON:** **QUESTIONS? Please call the person named in item 7.**		
4. Donor's hourly rate of pay:		
5. Dollar value of leave donated (i.e., total leave donated multiplied by donor's hourly rate of pay):		
6. FIMS account information for donor:		
7. Certified by:		8. Date:
9. Title:		10. Phone:

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WV DIVISION OF PERSONNEL **LEAVE DONATION PROGRAM**

INTER-AGENCY DONATION FORM

PART I – Notification of inter-agency leave donation.

FROM:

1. Agency:	2. Section:	3. Unit:
4. FIMS Account Number (for Donor):	5. Total Dollar Amount of Leave Donation:	
6. Contact Person:	7. Phone:	

TO:

8. Agency:	9. Section:	10. Unit:
11. Name of Recipient:		

PART II – Request for reimbursement.

In accordance with the information provided above, the specified dollar amount of leave donation was paid to the designated recipient on _____. Please provide reimbursement as follows:

1. (date)

2. Amount: _____

3. FIMS Account Information: _____

FIMS Transaction Number: _____

4. Contact Person:	5. Phone:

PART III – Notification of Return of Unused Annual Leave Donation.

1. $_____ of this leave donation will not be used. Please recredit the appropriate amount of annual leave hours to the donor's annual leave balance.

2. Contact Person:	3. Phone:

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