

# State of Wisconsin



2003 Assembly Bill 418

Date of enactment: **March 17, 2004**

Date of publication\*: **March 30, 2004**

## 2003 WISCONSIN ACT 162

AN ACT *to amend* 230.32 (1) (intro.); and *to create* 230.315 of the statutes; **relating to:** differential pay and accumulation of sick leave and annual leave for state employees activated into service in the U.S. armed forces or the U.S. public health service.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 230.315 of the statutes is created to read:

**230.315 Differential pay, sick leave, and annual leave for state employees activated into certain federal service.** (1) Subject to sub. (3), a state employee who is activated to serve on military duty in the U.S. armed forces shall be paid his or her state salary, less any military pay and housing allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and housing allowances equal or exceed his or her state salary, and shall accumulate sick leave and paid annual leave of absence as though no interruption in service has occurred if all of the following apply:

(a) On or after January 1, 2003, the employee is activated to serve, or is serving, on military duty in the U.S. armed forces, other than for training purposes.

(b) On the date on which he or she is activated, the employee is either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from inactive reserve status.

(c) The employee has received a military leave of absence under s. 230.32 (3) (a) or 230.35 (3), under a col-

lective bargaining agreement under subch. V of ch. 111, or under rules promulgated by the office of employment relations or is eligible for reemployment with the state under s. 45.50 after completion of his or her service in the U.S. armed forces.

(2) Subject to sub. (3), on or after January 1, 2003, a state employee who is required to serve, or who is serving, in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her state salary, less any federal pay and housing allowances that he or she receives, during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and housing allowances equal or exceed his or her state salary, and shall accumulate sick leave and paid annual leave of absence as though no interruption in service has occurred.

(3) (a) Except as provided in par. (b), beginning on the day in which a state employee is activated to serve on military duty in the U.S. armed forces or to serve in the U.S. public health service, the employee shall receive the pay and benefits authorized under sub. (1) or (2) for a period of not more than 179 days. If a state employee is eligible to receive pay and benefits for military service under s. 230.35 (3) (a) or a collective bargaining agreement under subch. V of ch. 111, the state employee shall become eligible to receive the pay and benefits authorized under sub. (1) or (2) only after receiving the pay and

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

benefits for military service under s. 230.35 (3) (a) or a collective bargaining agreement under subch. V of ch. 111.

(b) The governor, by executive order, may extend the period that an employee receives the pay and benefits under par. (a) up to a period of 2 years from the date on which the person is activated to serve on military duty in the U.S. armed forces or to serve in the U.S. public health service. Any extension granted by the governor under this paragraph may apply to an individual employee or to a group of employees, as determined by the governor.

(c) No employee who is eligible to receive the pay and benefits under sub. (1) or (2) may receive the pay or benefits for any service in the U.S. armed forces or the U.S. public health service for any such service before January 1, 2003.

(4) An appointing authority shall permit a state employee who is eligible to receive the pay and benefits authorized under sub. (1) or (2) and who has completed his or her duty with the U.S. armed forces or the U.S. public health service to use up to 160 hours of accumulated paid leave before the employee resumes employment with the state. Any accumulated paid leave that is used under this subsection must be used no later than 30 days after the employee has completed his or her duty with the U.S. armed forces or the U.S. public health service. If, after using any such accumulated paid leave, an employee has any accumulated paid leave remaining that was accumulated while on duty with the U.S. armed forces or the U.S. public health service, the appointing authority shall permit the employee to carry over the leave into the next year for use in that year.

**SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

230.32 (1) (intro.) Any classified employee of this state, except a limited term employee, who enlists, is ordered or is inducted into active service in the armed forces of the United States or who is requested to work for the federal government during a national emergency or a limited national emergency, shall be restored to the same or similar position in the classified service and his

or her employment shall be deemed not to have been interrupted by such leave except for the receipt of pay or other compensation, and accumulation of sick leave and accumulation of vacation for the period of such absence, unless the employee qualifies to receive pay and benefits under s. 230.315, and the employee shall be given all the other benefits of seniority, status, pay, pay advancement, performance awards and pension rights under ch. 40 as though the state employment was continuous, if:

**SECTION 3. Nonstatutory provisions.**

(1) COVERAGE.

(a) Except as provided in paragraph (b) and notwithstanding sections 111.84 (1) and (2), 111.91 (1) and (2), and 111.93 (3) of the statutes, section 230.315 of the statutes, as created by this act, applies to state employees and the state before July 1, 2005, regardless of whether the employees are nonrepresented or represented by a labor organization, as defined in section 111.81 (12) of the statutes.

(b) Beginning on July 1, 2003, for any state employee represented by a labor organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the statutes, as created by this act, applies until the day before the effective date of any act ratifying the collective bargaining agreement for the 2003-05 fiscal biennium that covers that employee. Beginning on the effective date of any such act, section 230.315 of the statutes, as created by this act, applies only if provided by the terms of the collective bargaining agreement.

(2) RETROACTIVE RECEIPT OF PAY AND BENEFITS. If a state employee who is eligible to receive the pay and benefits authorized under section 230.315 of the statutes, as created by this act, was activated to serve, or is serving, on military duty in the U.S. armed forces or in the U.S. public health service during the period that begins on January 1, 2003, and ends on the day before the effective date of this subsection, the employee shall receive the pay and benefits authorized under section 230.315 (1) or (2) of the statutes, as created by this act, for any service on military duty in the U.S. armed forces or in the U.S. public health service during that period.