

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 418**

September 8, 2003 – Offered by Representative MUSSER.

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

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

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

6 **230.315 Differential pay, sick leave, and annual leave for state**
7 **employees activated into certain federal service. (1)** Subject to sub. (3), a state
8 employee who is activated to serve on military duty in the U.S. armed forces shall
9 be paid his or her state salary, less any military pay and housing allowances that he
10 or she receives, during the period in which the employee is on military duty in the
11 U.S. armed forces, unless the military pay and housing allowances equal or exceed

1 his or her state salary, and shall accumulate sick leave and paid annual leave of
2 absence as though no interruption in service has occurred if all of the following apply:

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

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

8 (c) The employee has received a military leave of absence under s. 230.32 (3)
9 (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,
10 or under rules promulgated by the office of employment relations or is eligible for
11 reemployment with the state under s. 45.50 after completion of his or her service in
12 the U.S. armed forces.

13 **(2)** Subject to sub. (3), a state employee who is required on or after January 1,
14 2003, to serve in the U.S. public health service and who is on detail with any of the
15 U.S. armed forces shall be paid his or her state salary, less any federal pay and
16 housing allowances that he or she receives, during the period in which the employee
17 is detailed for duty with any of the U.S. armed forces, unless the federal pay and
18 housing allowances equal or exceed his or her state salary, and shall accumulate sick
19 leave and paid annual leave of absence as though no interruption in service has
20 occurred.

21 **(3)** (a) Except as provided in par. (b), beginning on the day in which a state
22 employee is activated to serve on military duty in the U.S. armed forces or to serve
23 in the U.S. public health service, the employee shall receive the pay and benefits
24 authorized under sub. (1) or (2) for a period of not more than 179 days. If a state
25 employee is eligible to receive pay and benefits for military service under s. 230.35

1 (3) (a) or a collective bargaining agreement under subch. V of ch. 111, the state
2 employee shall become eligible to receive the pay and benefits authorized under sub.
3 (1) or (2) only after receiving the pay and benefits for military service under s. 230.35
4 (3) (a) or a collective bargaining agreement under subch. V of ch. 111.

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

11 (4) An appointing authority shall permit a state employee who is eligible to
12 receive the pay and benefits authorized under sub. (1) or (2) and who has completed
13 his or her duty with the U.S. armed forces or the U.S. public health service to use up
14 to 80 hours of accumulated paid leave before the employee resumes employment with
15 the state. Any accumulated paid leave that is used under this subsection must be
16 used no later than 14 days after the employee has completed his or her duty with the
17 U.S. armed forces or the U.S. public health service.

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

19 230.32 (1) (intro.) Any classified employee of this state, except a limited term
20 employee, who enlists, is ordered or is inducted into active service in the armed forces
21 of the United States or who is requested to work for the federal government during
22 a national emergency or a limited national emergency, shall be restored to the same
23 or similar position in the classified service and his or her employment shall be
24 deemed not to have been interrupted by such leave except for the receipt of pay or
25 other compensation, and accumulation of sick leave and ~~accumulation of vacation~~ for

1 the period of such absence, unless the employee qualifies to receive pay and benefits
2 under s. 230.315, and the employee shall be given all the other benefits of seniority,
3 status, pay, pay advancement, performance awards and pension rights under ch. 40
4 as though the state employment was continuous, if:

5 **SECTION 3. Nonstatutory provisions.**

6 (1) COVERAGE.

7 (a) Except as provided in paragraph (b) and notwithstanding sections 111.84
8 (1) and (2), 111.91 (1) and (2), and 111.93 (3) of the statutes, section 230.315 of the
9 statutes, as created by this act, applies to state employees and the state before July
10 1, 2005, regardless of whether the employees are nonrepresented or represented by
11 a labor organization, as defined in section 111.81 (12) of the statutes.

12 (b) Beginning on July 1, 2003, for any state employee represented by a labor
13 organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the
14 statutes, as created by this act, applies until the day before the effective date of any
15 act ratifying the collective bargaining agreement for the 2003–05 fiscal biennium
16 that covers that employee. Beginning on the effective date of any such act, section
17 230.315 of the statutes, as created by this act, applies only if provided by the terms
18 of the collective bargaining agreement.

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

1 statutes, as created by this act, for any service on military duty in the U.S. armed
2 forces or in the U.S. public health service during that period.

3 (END)