

**2009 DRAFTING REQUEST**

**Bill**

Received: **08/28/2009**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Kelda Helen Roys (608) 266-5340**

By/Representing: **Emily and Rep. Roys**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - civil service**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Roys@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Furlough of state employees during 2009-11 fiscal biennium

---

**Instructions:**

See attached.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	rchampag 08/31/2009	nnatzke 09/01/2009	mduchek 09/01/2009	_____	sbasford 09/01/2009		State
/2	rchampag 09/02/2009	nnatzke 09/03/2009	jfrantze 09/04/2009	_____	sbasford 09/04/2009		State
/3	rchampag 09/30/2009	nnatzke 10/01/2009	jfrantze 10/01/2009	_____	mbarman 10/01/2009		State

for Assembly per  
via phone

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/5	rchampag 10/20/2009 rchampag 10/23/2009	nmatzke 10/20/2009 nmatzke 10/23/2009	jfrantze 10/20/2009	_____ _____ _____	mbarman 10/20/2009		State
/6			jfrantze 10/23/2009	_____ _____	sbasford 10/23/2009	cduerst 10/23/2009	

FE Sent For:

*at  
intro*

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1/5 nwn  
10/26  
*J. Roys* 10/20

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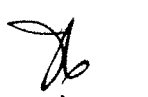
Instructions:

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/?	rchampag	/1 nwn 8/31	<i>MD</i> 8/31	<i>G</i> <i>DH/jk</i>			
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FE Sent For:

<END>

Per Rep. Roup & Emily (her aide)

(1) Draft bill exempting certain state employees from mandatory furlough during 2009-11 biennium.

(2) Mandatory exemption

(A) Position funded from federal revenues

(B) Position not as filled up employees making overtime in their absence

(3) Permissive exemption

(A) Position that generates more revenue than salary/fringe costs of the position

(B) Create passive review 14 day process for permissive exemption

— also quarterly report



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/1

RAC:j.....

nwn

2009 BILL

- gen. cat.

1 AN ACT ...; relating to: furlough of executive branch state employees during the  
2 2009-11 fiscal biennium and making an appropriation.

**Analysis by the Legislative Reference Bureau**

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009-11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009-11 fiscal biennium. Under the bill, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid, in whole or part, from federal revenues, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay.

In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the cochairpersons of the Joint Committee on Finance (JCF). If the cochairpersons do not notify the state agency that JCF has

**BILL**

scheduled a meeting for the purpose of reviewing the request within 14 working days after the date of the request, the state agency may exempt the employee from an unpaid leave of absence. If, within 14 working days after the date of the request, the cochairpersons notify the state agency that JCF has scheduled a meeting for the purpose of reviewing the reviewing, the state agency may not exempt the employee from an unpaid leave of absence without the approval of JCF. Under the bill, if a state employee is exempted from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1. Nonstatutory provisions.**

(1) EXEMPTION OF EXECUTIVE BRANCH EMPLOYEES FROM UNPAID LEAVES OF ABSENCE DURING THE 2009-11 FISCAL BIENNIUM.

(a) *Definitions.*

1. "Executive branch employee" means a state employee employed by a state agency.

2. "Federal revenues" has the meaning given in section 20.001 (2) (e) of the statutes.

3. "Revenues" means all revenue types specified in section 20.001 (2) of the statutes.

4. "State agency" has the meaning given in section 20.001 (1) of the statutes, but does not include the legislature and the courts.

5. "Unpaid leave of absence" means an unpaid leave of absence required under Executive Order 285.



**BILL**

1 (b) *Mandatory exemption from unpaid leave of absence.* During the 2009-11  
 2 fiscal biennium, none of the following executive branch employees may be required  
 3 to serve an unpaid leave of absence:

4 1. An executive branch employee whose compensation is paid, in whole or part,  
 5 from federal revenues.

6 2. An executive branch employee whose duties, while that employee is on an  
 7 unpaid leave of absence, would be performed by an employee receiving overtime pay.

8 (c) *Permissive exemption from unpaid leave of absence.*

9 <sup>create</sup> → 1. During the 2009-11 fiscal biennium, if a state agency determines that an  
 10 executive branch employee, while performing his or her duties on an annual basis,  
 11 generates revenues that exceed his or her annual salary and fringe benefits costs, the  
 12 state agency may submit a request to the cochairpersons of the joint committee on  
 13 finance to exempt the employee from an unpaid leave of absence. A request  
 14 submitted under this subdivision may be for one employee or a class of employees.

15 2. A request submitted by a state agency under subdivision 1. shall include  
 16 information documenting the revenues generated by the executive branch employee  
 17 and the employee's annual salary and fringe benefits costs.

18 3. If the cochairpersons of the committee do not notify the state agency that the  
 19 committee has scheduled a meeting for the purpose of reviewing the request under  
 20 subdivision 1. within 14 working days after the date of the request, the state agency  
 21 may exempt the executive branch employee from an unpaid leave of absence. If,  
 22 within 14 working days after the date of the request, the cochairpersons of the  
 23 committee notify the state agency that the committee has scheduled a meeting for  
 24 the purpose of reviewing the request the state agency may not exempt the  
 25 employee from an unpaid leave of absence without the approval of the committee.

**BILL**

**SECTION 1**

1 4. If an executive employee is exempted from an unpaid leave of absence under  
2 subdivision 3., the appropriation that is used to pay salary and fringe benefit costs  
3 for the employee's position is supplemented to cover any additional salary and fringe  
4 benefit costs for the position resulting from the employee's not taking an unpaid  
5 leave of absence. ✓

6 5. For the 2009-11 fiscal biennium, each state agency whose requests are  
7 approved under subdivision 3. shall submit a quarterly report to the cochairpersons  
8 of the joint committee documenting the revenues generated by the executive branch  
9 employee during the preceding quarter. ✓

10 (END)

Per Rep. Roy's & Emily McWilliams:

- ① Broaden exemption to include employees whose compensation is paid from gift & grants
- ② Pro-rata leave of absence requirement to amount of federal & gifts & grants funding versus other funding for compensation
- ③ Require active JCF approval, NOT passive review
- ④ Incorporate similar prohibition on contractual services as was in 16.705(9) of budget

## Champagne, Rick

---

**From:** McWilliams, Emily  
**Sent:** Wednesday, September 02, 2009 10:21 AM  
**To:** Champagne, Rick  
**Subject:** RE:

Thanks, Rick. That is exactly what we are going for (minus the stimulus exception). Onward we go!

---

**From:** Champagne, Rick  
**Sent:** Wednesday, September 02, 2009 10:15 AM  
**To:** McWilliams, Emily  
**Subject:**

Emily:

Look at section 16.705 (9) in the budget act, which the governor vetoed. Do you want something like that (but without the economic stimulus funds exception)?

Rick



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/V 2  
RAC:nwn:md

*SOA*

2009 BILL

*or an appropriation of gifts and grants*

*-gen. cat*

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2 2009-11 fiscal biennium and making an appropriation.

*Analysis by the Legislative Reference Bureau*

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009-11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009-11 fiscal biennium. Under the bill, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid ~~in whole or~~ ~~partly~~ from federal revenues, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay.

In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the ~~cochairpersons of the~~ Joint Committee on Finance (JCF). ~~If the cochairpersons do not notify the state agency that JCF has~~

*with exceptions*

**BILL**

Insert Analysis 1

scheduled a meeting for the purpose of reviewing the request within 14 working days after the date of the request, the state agency may exempt the employee from an unpaid leave of absence. If, within 14 working days after the date of the request, the cochairpersons notify the state agency that JCF has scheduled a meeting for the purpose of reviewing the request, the state agency may not exempt the employee from an unpaid leave of absence without the approval of JCF. Under the bill, if a state employee ~~is exempted~~ from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert Analysis 2

JCF JCF exempts

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

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AND CS

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**BILL**

Insert 3-6

(b) *Mandatory exemption from unpaid leave of absence.* During the 2009-11 fiscal biennium, none of the following executive branch employees may be required to serve an unpaid leave of absence:

1. An executive branch employee whose compensation is paid, in whole or part, from federal revenues.

2. An executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay.

(c) *Permissive exemption from unpaid leave of absence.*

1. During the 2009-11 fiscal biennium, if a state agency determines that an executive branch employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs, the state agency may submit a request to the ~~cochairpersons~~ <sup>chairpersons</sup> of the joint committee on finance to exempt the employee from an unpaid leave of absence. A request submitted under this subdivision may be for one employee or a class of employees.

2. A request submitted by a state agency under subdivision 1. shall include information documenting the revenues generated by the executive branch employee and the employee's annual salary and fringe benefits costs.

~~3. If the cochairpersons of the committee do not notify the state agency that the committee has scheduled a meeting for the purpose of reviewing the request under subdivision 1. within 14 working days after the date of the request, the state agency may exempt the executive branch employee from an unpaid leave of absence. If, within 14 working days after the date of the request, the cochairpersons of the committee notify the state agency that the committee has scheduled a meeting for the purpose of reviewing the request, the state agency may not exempt the employee from an unpaid leave of absence without the approval of the committee.~~

Insert 3-25

25

BILL

1           4. If an executive branch employee is exempted from an unpaid leave of absence  
 2           under subdivision 3., the appropriation that is used to pay salary and fringe benefit  
 3           costs for the employee's position is supplemented to cover any additional salary and  
 4           fringe benefit costs for the position resulting from the employee's not taking an  
 5           unpaid leave of absence.

6           5. For the 2009-11 fiscal biennium, each state agency whose requests are  
 7           approved under subdivision 3. shall submit a quarterly report to the ~~chairpersons~~  
 8           ~~APM~~ joint committee <sup>ON FINANCE</sup> documenting the revenues generated by the executive branch  
 9           employee during the preceding quarter.

10

(END)

Insert 4-10

underlying  
 from the underlying fund, or appropriation  
 whichever is <sup>appropriate</sup> appropriate,  
 account of from which the appropriation is made



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3340/2ins  
RAC::

**Insert Analysis1:**

At its next regularly scheduled meeting, JCF must approve, modify, or disapprove the request. ✓

**Insert Analysis2:**

Finally, the bill provides that during the 2009-11 fiscal biennium a state agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees who would have performed the services had they not have been required to serve an unpaid leave of absence. ✓

**Insert 3-6:**

→ ~~§~~ An executive branch employee whose compensation is paid from federal revenues ✓ or an appropriation of gifts and grants. ✓ If such an employee's compensation is partly paid from another revenue source, the employee must serve an unpaid leave of absence in proportion to the funding of his or her compensation from that revenue source. ✓

**Insert 3-25:**

create  
A.R.F

→ ~~2.~~ At the next regularly scheduled meeting of the joint committee of finance under section 13.10 of the statutes, ✓ the joint committee on finance shall approve, modify, or disapprove the request. ✓

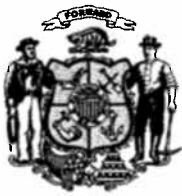
Insert 4-10:

~~(§)~~ *Limitations on contractual services contracts.* During the 2009-11 fiscal biennium, a state agency ✓ may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees ✓ who would have performed the services had they not have been required to serve an unpaid leave of absence. ✓

Per Emily (9/29/09)

1. Specify that state agency employees  
re employee determines the overtime issue  
under (b) 2.

2. allow (b) 1. employees who have  
already taken furlough leave to substitute  
paid leave for that furlough leave.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/2/3  
RAC:nwn:jf

Jean

2009 BILL

RMR

gen cat

- 1 AN ACT relating to: furlough of executive branch state employees during the
- 2 2009-11 fiscal biennium and making an appropriation.

***Analysis by the Legislative Reference Bureau***

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009-11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009-11 fiscal biennium. Under the bill, with exceptions, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid from federal revenues or an appropriation of gifts and grants, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay. ↑

In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the Joint Committee on Finance (JCF). At its next regularly scheduled meeting, JCF must approve, modify, or disapprove

Insent  
Analysis

**BILL**

the request. If JCF exempts a state employee from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

Finally, the bill provides that during the 2009-11 fiscal biennium a state agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees who would have performed the services had they not have been required to serve an unpaid leave of absence.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1           **SECTION 1. Nonstatutory provisions.**

2           (1) EXECUTIVE BRANCH EMPLOYEES AND UNPAID LEAVES OF ABSENCE DURING THE  
3 2009-11 FISCAL BIENNIUM.

4           (a) *Definitions.*

5           1. "Executive branch employee" means a state employee employed by a state  
6 agency.

7           2. "Federal revenues" has the meaning given in section 20.001 (2) (e) of the  
8 statutes.

9           3. "Revenues" means all revenue types specified in section 20.001 (2) of the  
10 statutes.

11           4. "State agency" has the meaning given in section 20.001 (1) of the statutes,  
12 but does not include the legislature and the courts.

13           5. "Unpaid leave of absence" means an unpaid leave of absence required under  
14 Executive Order 285.

BILL

LPS: Pls.  
chg. comp.

# 1.

1 (b) *Mandatory exemption from unpaid leave of absence.* During the 2009-11  
2 fiscal biennium, none of the following executive branch employees may be required  
3 to serve an unpaid leave of absence:

4 <sup>Chg. comp.</sup> ~~X~~<sub>La</sub> An executive branch employee whose compensation is paid from federal  
5 revenues or an appropriation of gifts and grants. If such an employee's compensation  
6 is partly paid from another revenue source, the employee must serve an unpaid leave  
7 of absence in proportion to the funding of his or her compensation from that revenue  
8 source.

9 <sup>Chg. comp.</sup> ~~Z~~<sub>Lb</sub> An executive branch employee whose duties, while that employee is on an  
10 unpaid leave of absence, would be performed by an employee receiving overtime pay.

11 (c) *Permissive exemption from unpaid leave of absence.*

12 1. During the 2009-11 fiscal biennium, if a state agency determines that an  
13 executive branch employee, while performing his or her duties on an annual basis,  
14 generates revenues that exceed his or her annual salary and fringe benefits costs, the  
15 state agency may submit a request to the joint committee on finance to exempt the  
16 employee from an unpaid leave of absence. A request submitted under this  
17 subdivision may be for one employee or a class of employees.

18 2. A request submitted by a state agency under subdivision 1. shall include  
19 information documenting the revenues generated by the executive branch employee  
20 and the employee's annual salary and fringe benefits costs.

21 3. At the next regularly scheduled meeting of the joint committee of finance  
22 under section 13.10 of the statutes, the joint committee on finance shall approve,  
23 modify, or disapprove the request.

24 4. If an executive branch employee is exempted from an unpaid leave of absence  
25 under subdivision 3., the appropriation that is used to pay salary and fringe benefit

Insert 3-11

to be determined by the state agency that employs the employee

**BILL**

1 costs for the employee's position is supplemented from the underlying fund or  
2 appropriation account, whichever is appropriate, ~~from the appropriation is made to~~<sup>e</sup>  
3 cover any additional salary and fringe benefit costs for the position resulting from  
4 the employee's not taking an unpaid leave of absence.

5 5. For the 2009-11 fiscal biennium, each state agency whose requests are  
6 approved under subdivision 3. shall submit a quarterly report to the joint committee  
7 on finance documenting the revenues generated by the executive branch employee  
8 during the preceding quarter.

9 (d) *Limitations on contractual services contracts.* During the 2009-11 fiscal  
10 biennium, a state agency may not enter into, renew, or extend any contractual  
11 services contracts with private contractors or consultants for the remainder of that  
12 fiscal biennium for the performance of services of executive branch employees who  
13 would have performed the services had they not have been required to serve an  
14 unpaid leave of absence.

15 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3340/3insRC  
RAC:.....

**Insert Analysis:**

*no ff* The bill provides that if such an executive branch employee was on an unpaid leave of absence before the act's effective date, the employee may elect to substitute any accrued paid leave for that unpaid leave.✓

**Insert 3-11:**

2. If an executive branch employee described under subdivision 1.✓ was on an unpaid leave of absence✓ before the effective date of this subdivision,✓ the employee may elect to substitute any accrued paid leave for that unpaid leave.✓ The employee shall notify his <sup>or her</sup> employer of this election and the state agency that employs the employee shall make all necessary adjustments to reimburse the employee for the unpaid leave of absence.✓

Rev Emily

10/5/09

- allow state agencies  
to delay implementation of  
(b) & (c) until 7/1/2010.

Need to elect before next

13.10 mtg. Also, don't

allow for use of paid

vacation for those who have  
already taken furlough day.





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/3/4  
RAC:nwn:jf

**2009 BILL**

*-gen cat*

1 **AN ACT relating to:** furlough of executive branch state employees during the  
2 2009-11 fiscal biennium and making an appropriation.

***Analysis by the Legislative Reference Bureau***

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009-11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009-11 fiscal biennium. Under the bill, with exceptions, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid from federal revenues or an appropriation of gifts and grants, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay. The bill provides that if such an executive branch employee was on an unpaid leave of absence before the act's effective date, the employee may elect to substitute any accrued paid leave for that unpaid leave.



In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues

**BILL**

that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the Joint Committee on Finance (JCF). At its next regularly scheduled meeting, JCF must approve, modify, or disapprove the request. If JCF exempts a state employee from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

Insert  
Analysis

Finally, the bill provides that during the 2009-11 fiscal biennium a state agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees who would have performed the services had they not have been required to serve an unpaid leave of absence.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

**SECTION 1. Nonstatutory provisions.**

(1) EXECUTIVE BRANCH EMPLOYEES AND UNPAID LEAVES OF ABSENCE DURING THE 2009-11 FISCAL BIENNIUM.

(a) *Definitions.*

1. "Executive branch employee" means a state employee employed by a state agency.

2. "Federal revenues" has the meaning given in section 20.001 (2) (e) of the statutes.

3. "Revenues" means all revenue types specified in section 20.001 (2) of the statutes.

4. "State agency" has the meaning given in section 20.001 (1) of the statutes, but does not include the legislature and the courts.

5. "Unpaid leave of absence" means an unpaid leave of absence required under Executive Order 285.

**BILL**

create A.R. Lisa

Insert 3-1

1

(b) *Mandatory exemption from unpaid leave of absence.*

2

1. During the 2009-11 fiscal biennium, none of the following executive branch employees may be required to serve an unpaid leave of absence:

3

4

a. An executive branch employee whose compensation is paid from federal revenues or an appropriation of gifts and grants. If such an employee's compensation is partly paid from another revenue source, the employee must serve an unpaid leave of absence in proportion to the funding of his or her compensation from that revenue source.

8

9

b. An executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay, as determined by the state agency that employs the employee.

10

11

12

2. If an executive branch employee described under subdivision 1. was on an unpaid leave of absence before the effective date of this subdivision, the employee may elect to substitute any accrued paid leave for that unpaid leave. The employee shall notify his or her employer of this election and the state agency that employs the employee shall make all necessary adjustments to reimburse the employee for the unpaid leave of absence.

13

14

15

16

17

create A.R. Marge  
(c) *Permissive exemption from unpaid leave of absence.*

18

Insert 3-19

19

1. During the 2009-11 fiscal biennium, if a state agency determines that an executive branch employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs, the state agency may submit a request to the joint committee on finance to exempt the employee from an unpaid leave of absence. A request submitted under this subdivision may be for one employee or a class of employees.

20

21

22

23

24

**BILL**

**SECTION 1**

1           2. A request submitted by a state agency under subdivision 1. shall include  
2 information documenting the revenues generated by the executive branch employee  
3 and the employee's annual salary and fringe benefits costs.

4           3. At the next regularly scheduled meeting of the joint committee of finance  
5 under section 13.10 of the statutes, the joint committee on finance shall approve,  
6 modify, or disapprove the request.

7           4. If an executive branch employee is exempted from an unpaid leave of absence  
8 under subdivision 3., the appropriation that is used to pay salary and fringe benefit  
9 costs for the employee's position is supplemented from the underlying fund or  
10 appropriation account, whichever is appropriate, to cover any additional salary and  
11 fringe benefit costs for the position resulting from the employee's not taking an  
12 unpaid leave of absence.

13           5. For the 2009-11 fiscal biennium, each state agency whose requests are  
14 approved under subdivision 3. shall submit a quarterly report to the joint committee  
15 on finance documenting the revenues generated by the executive branch employee  
16 during the preceding quarter.

17           (d) *Limitations on contractual services contracts.* During the 2009-11 fiscal  
18 biennium, a state agency may not enter into, renew, or extend any contractual  
19 services contracts with private contractors or consultants for the remainder of that  
20 fiscal biennium for the performance of services of executive branch employees who  
21 would have performed the services had they not have been required to serve an  
22 unpaid leave of absence.

23 →

(END)

Insert 4-23

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3340/4ins  
RAC:nwn:jf

**Insert Analysis:**

The bill permits a state agency to delay implementation of the mandatory and permissive exemptions from an unpaid leave of absence to July 1, 2010, by notifying the cochairpersons of JCF, in writing, before its next regularly scheduled meeting after the bill's effective date.

**Insert 3-1:**

Beginning on the effective date of this paragraph or (July 1, 2010) if a state agency elects under paragraph (e), none of the following executive branch employees may be required to serve an unpaid leave of absence:

**Insert 3-19:**

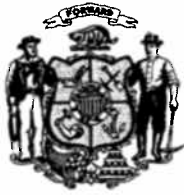
Beginning on the effective date of this paragraph or (July 1, 2010) if a state agency elects under paragraph (e),

**Insert 4-23:**

*Implementation date of exemptions from unpaid of absence.* A state agency may elect to delay the implementation of paragraphs (b) and (c) until July 1, 2010. If a state agency so elects, the state agency must notify the cochairpersons of the joint committee on finance, in writing, of this election. The notification must be made before the next regularly scheduled meeting of the joint committee on finance under section 13.10 of the statutes that occurs after the effective date of this paragraph.

Per Emily (10/20/09)

Require state agencies to follow  
collective bargaining agreements.



*(D-Note)*  
State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/5

RAC:nwn:jf

*(WED)*

RMR

**2009 BILL**

*- gen. cat.*

1 **AN ACT relating to:** furlough of executive branch state employees during the  
2 2009-11 fiscal biennium and making an appropriation.

---

***Analysis by the Legislative Reference Bureau***

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009-11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009-11 fiscal biennium. Under the bill, with exceptions, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid from federal revenues or an appropriation of gifts and grants, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay.

In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the Joint Committee on Finance (JCF). At its next regularly scheduled meeting, JCF must approve, modify, or disapprove

**BILL**

the request. If JCF exempts a state employee from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

The bill permits a state agency to delay implementation of the mandatory and permissive exemptions from an unpaid leave of absence to July 1, 2010, by notifying the cochairpersons of JCF, in writing, before its next regularly scheduled meeting after the bill's effective date.

Finally, the bill provides that during the 2009-11 fiscal biennium a state agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees who would have performed the services had they not have been required to serve an unpaid leave of absence.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1. Nonstatutory provisions.**

2           (1) EXECUTIVE BRANCH EMPLOYEES AND UNPAID LEAVES OF ABSENCE DURING THE  
3           2009-11 FISCAL BIENNIUM.

4           (a) *Definitions.*

5           1. "Executive branch employee" means a state employee employed by a state  
6           agency.

7           2. "Federal revenues" has the meaning given in section 20.001 (2) (e) of the  
8           statutes.

9           3. "Revenues" means all revenue types specified in section 20.001 (2) of the  
10          statutes.

11          4. "State agency" has the meaning given in section 20.001 (1) of the statutes,  
12          but does not include the legislature and the courts.



**BILL**

1           5. "Unpaid leave of absence" means an unpaid leave of absence required under  
2 Executive Order 285.

3           (b) *Mandatory exemption from unpaid leave of absence.* Beginning on the  
4 effective date of this paragraph, or on July 1, 2010, if a state agency elects under  
5 paragraph (e), none of the following executive branch employees may be required to  
6 serve an unpaid leave of absence:

7           1. An executive branch employee whose compensation is paid from federal  
8 revenues or an appropriation of gifts and grants. If such an employee's compensation  
9 is partly paid from another revenue source, the employee must serve an unpaid leave  
10 of absence in proportion to the funding of his or her compensation from that revenue  
11 source.

12           2. An executive branch employee whose duties, while that employee is on an  
13 unpaid leave of absence, would be performed by an employee receiving overtime pay,  
14 as determined by the state agency that employs the employee.

15           (c) *Permissive exemption from unpaid leave of absence.*

16           1. Beginning on the effective date of this paragraph, or on July 1, 2010, if a state  
17 agency elects under paragraph (e), if a state agency determines that an executive  
18 branch employee, while performing his or her duties on an annual basis, generates  
19 revenues that exceed his or her annual salary and fringe benefits costs, the state  
20 agency may submit a request to the joint committee on finance to exempt the  
21 employee from an unpaid leave of absence. A request submitted under this  
22 subdivision may be for one employee or a class of employees.

23           2. A request submitted by a state agency under subdivision 1. shall include  
24 information documenting the revenues generated by the executive branch employee  
25 and the employee's annual salary and fringe benefits costs.

**BILL**

1           3. At the next regularly scheduled meeting of the joint committee of finance  
2 under section 13.10 of the statutes, the joint committee on finance shall approve,  
3 modify, or disapprove the request.

4           4. If an executive branch employee is exempted from an unpaid leave of absence  
5 under subdivision 3., the appropriation that is used to pay salary and fringe benefit  
6 costs for the employee's position is supplemented from the underlying fund or  
7 appropriation account, whichever is appropriate, to cover any additional salary and  
8 fringe benefit costs for the position resulting from the employee's not taking an  
9 unpaid leave of absence.

10          5. For the 2009-11 fiscal biennium, each state agency whose requests are  
11 approved under subdivision 3. shall submit a quarterly report to the joint committee  
12 on finance documenting the revenues generated by the executive branch employee  
13 during the preceding quarter.

14          (d) *Limitations on contractual services contracts.* During the 2009-11 fiscal  
15 biennium, a state agency may not enter into, renew, or extend any contractual  
16 services contracts with private contractors or consultants for the remainder of that  
17 fiscal biennium for the performance of services of executive branch employees who  
18 would have performed the services had they not have been required to serve an  
19 unpaid leave of absence.

20          (e) *Implementation date of exemptions from unpaid of absence.* A state agency  
21 may elect to delay the implementation of paragraphs (b) and (c) until July 1, 2010.  
22 If a state agency so elects, the state agency must notify the cochairpersons of the joint  
23 committee on finance, in writing, of this election. The notification must be made

**BILL**

1 before the next regularly scheduled meeting of the joint committee on finance under  
2 section 13.10 of the statutes that occurs after the effective date of this paragraph.

3

(END)

D-note

Insert  
5-3

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3340/5ins  
RAC:nwn:jf

**Insert 5-3**

> ~~§~~ *Adherence to collective bargaining agreements.* In implementing this subsection, section a state agency shall adhere to all relevant provisions relating to this section <sup>e. subsec</sup> in applicable collective bargaining agreements entered into under subchapter V of chapter 111 of the statutes.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3340/5dn  
RAC:nwn:jf

Date

Representative Roys:

Per your specific request, I required state agencies in implementing this act to adhere to all relevant provisions in applicable collective bargaining agreements. Please note that state agencies are already required by law to adhere to collective bargaining agreements on matters contained in the agreements, unless the matters contained in the agreements are prohibited subjects of bargaining. Inserting such a provision into a bill does not require anything of the state agency that is not already required of that state agency by law. In fact, by specifically requiring a state agency to adhere to the terms of a collective bargaining in this one instance, but not in all other instances, the bill may make create confusion as to what other provisions contained in a collective bargaining agreement a state agency is not required to follow. Please note that I am not aware of any other bill introduced in this session or any other session that would require a state agency to adhere to the terms of a collective bargaining agreement covering state employees.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

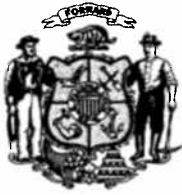
LRB-3340/5dn  
RAC:nwn:jf

October 20, 2009

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Rick A. Champagne  
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State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-3340/5  
RAC:nwn:jf

6

Today

**2009 BILL**

Regen.

1 AN ACT relating to: furlough of executive branch state employees during the  
2 2009-11 fiscal biennium and making an appropriation.

---

***Analysis by the Legislative Reference Bureau***

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**BILL**

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The bill permits a state agency to delay implementation of the mandatory and permissive exemptions from an unpaid leave of absence to July 1, 2010, by notifying the cochairpersons of JCF, in writing, before its next regularly scheduled meeting after the bill's effective date.

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**BILL**

1           5. "Unpaid leave of absence" means an unpaid leave of absence required under  
2 Executive Order 285.

3           (b) *Mandatory exemption from unpaid leave of absence.* Beginning on the  
4 effective date of this paragraph, or on July 1, 2010, if a state agency elects under  
5 paragraph (e), none of the following executive branch employees may be required to  
6 serve an unpaid leave of absence:

7           1. An executive branch employee whose compensation is paid from federal  
8 revenues or an appropriation of gifts and grants. If such an employee's compensation  
9 is partly paid from another revenue source, the employee must serve an unpaid leave  
10 of absence in proportion to the funding of his or her compensation from that revenue  
11 source.

12           2. An executive branch employee whose duties, while that employee is on an  
13 unpaid leave of absence, would be performed by an employee receiving overtime pay,  
14 as determined by the state agency that employs the employee.

15           (c) *Permissive exemption from unpaid leave of absence.*

16           1. Beginning on the effective date of this paragraph, or on July 1, 2010, if a state  
17 agency elects under paragraph (e), if a state agency determines that an executive  
18 branch employee, while performing his or her duties on an annual basis, generates  
19 revenues that exceed his or her annual salary and fringe benefits costs, the state  
20 agency may submit a request to the joint committee on finance to exempt the  
21 employee from an unpaid leave of absence. A request submitted under this  
22 subdivision may be for one employee or a class of employees.

23           2. A request submitted by a state agency under subdivision 1. shall include  
24 information documenting the revenues generated by the executive branch employee  
25 and the employee's annual salary and fringe benefits costs.

**BILL****SECTION 1**

1           3. At the next regularly scheduled meeting of the joint committee of finance  
2 under section 13.10 of the statutes, the joint committee on finance shall approve,  
3 modify, or disapprove the request.

4           4. If an executive branch employee is exempted from an unpaid leave of absence  
5 under subdivision 3., the appropriation that is used to pay salary and fringe benefit  
6 costs for the employee's position is supplemented from the underlying fund or  
7 appropriation account, whichever is appropriate, to cover any additional salary and  
8 fringe benefit costs for the position resulting from the employee's not taking an  
9 unpaid leave of absence.

10          5. For the 2009-11 fiscal biennium, each state agency whose requests are  
11 approved under subdivision 3. shall submit a quarterly report to the joint committee  
12 on finance documenting the revenues generated by the executive branch employee  
13 during the preceding quarter.

14           (d) *Limitations on contractual services contracts.* During the 2009-11 fiscal  
15 biennium, a state agency may not enter into, renew, or extend any contractual  
16 services contracts with private contractors or consultants for the remainder of that  
17 fiscal biennium for the performance of services of executive branch employees who  
18 would have performed the services had they not have been required to serve an  
19 unpaid leave of absence.

20           (e) *Implementation date of exemptions from unpaid of absence.* A state agency  
21 may elect to delay the implementation of paragraphs (b) and (c) until July 1, 2010.  
22 If a state agency so elects, the state agency must notify the cochairpersons of the joint  
23 committee on finance, in writing, of this election. The notification must be made  
24 before the next regularly scheduled meeting of the joint committee on finance under  
25 section 13.10 of the statutes that occurs after the effective date of this paragraph.

**BILL**

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(f) *Adherence to collective bargaining agreements.* In implementing this subsection, a state agency shall adhere to all relevant provisions relating to this subsection in applicable collective bargaining agreements entered into under subchapter V of chapter 111 of the statutes.

(END)