

# STATEMENT OF SCOPE

## Department of Administration

**Rule No.:** Chapters ER 10, 18 (revise)

**Relating to:** Technical changes to ER rules related to calculation of annual hours

**Rule Type:** Both Permanent and Emergency

### **1. Finding/nature of emergency (Emergency Rule only):**

Implementation of Human Capital Management portion of PeopleSoft for the STAR Project is effective January 1, 2016. PeopleSoft will require using 2080 hours instead of 2088 hours as a full year in certain provisions of the ER rules.

### **2. Detailed description of the objective of the proposed rule:**

Changes to ch. ER 10 governing pay rates and leave time for limited term employee appointments to provide language consistent with statutory language regarding the maximum number of hours for an appointment.

Changes to ch. ER 18 governing the annual leave use and calculation to:

Revise annual leave language regarding leave rates and conversion factors to make it consistent with current statutory leave rates language, and create new conversion factors to divide the annual rate by 2080 hours instead of 2088 hours.

Revise language regarding the proration of annual leave available to use for termination and sabbatical leave or cash payment based on 2080 hours instead of 2088 hours.

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

#### Chapter ER 10

2015 Wisconsin Act 58 changed the maximum length of limited term appointments from 1043 to 1039 hours. Changes to s. ER 10.01 are necessary to provide hours language that is consistent with the statutes. The statutory change was made in anticipation of PeopleSoft implementation, which will switch annual hours from 2088 to 2080.

#### Chapter ER 18

2005 Wisconsin Act 21 changed s. 230.35 (1m), Stats., to allow nonrepresented employees with FLSA nonexempt status to receive an annual leave schedule identical to that of FLSA nonexempt status covered by collective bargaining agreements. Changes to s. ER 18.02 (3)(c)1. and (4)(d) are necessary to make them consistent with the statute. In addition, changes to the conversion factors are necessary effective January 1, 2016, in anticipation of PeopleSoft implementation, which will switch annual hours from 2088 to 2080.

Section ER 18.02 (5) (c) addresses the proration of annual leave hours available for use as credit for combined termination and sabbatical leave or cash payment at the end of the calendar year. It uses 2088 hours as the bases for calculating the prorated amount. Changes to s. ER 18.02 (5) (c) are necessary effective January 1, 2016, in anticipation of PeopleSoft implementation, which will switch annual hours from 2088 to 2080.

#### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 7.33 (4), Stats., reads: (4) Except as otherwise provided in this subsection, each local governmental unit, as defined in s. 16.97 (7), may, and each state agency shall, upon proper application under sub. (3), permit each of its employees to serve as an election official under s. 7.30 without loss of fringe benefits or seniority privileges earned for scheduled working hours during the period specified in sub. (3), without loss of pay for scheduled working hours during the period specified in sub. (3) except as provided in sub. (5), and without any other penalty. For employees who are included in a collective bargaining unit for which a representative is recognized or certified under subch. V of ch. 111, this subsection shall apply unless otherwise provided in a collective bargaining agreement.

Section 227.11 (2) (a), Stats., reads: (2) Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

Section 230.04 (1), Stats., reads: (1) The administrator is charged with the effective administration of this chapter. All powers and duties, necessary to that end, which are not exclusively vested by statute in the commission, the division of equal rights, the administrator or appointing authorities, are reserved to the director.

Section 230.04 (5), Stats., reads: (5) The administrator shall promulgate rules on all matters relating to the administration of the office and the performance of the duties assigned to the director, except on matters relating to those provisions of subch. II for which responsibility is specifically charged to the administrator.

Section 230.04 (14), Stats., reads: (14) The administrator shall establish, by rule, the scope and minimum requirements of a state employee grievance procedure relating to conditions of employment.

#### **5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The estimated time to be spent by state employees is 8 hours. No other resources are necessary.

**6. List with description of all entities that may be affected by the proposed rule :**

The rule revisions will affect state employees covered by the rules, and agencies and appointing authorities who implement and/or make decisions based on them.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

There are no existing or proposed federal regulations related to the proposed rule changes.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

There will be minimal or no economic impact of these proposed rule revisions.

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