

WSR 24-14-107
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT
[Filed July 1, 2024, 11:40 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-01-022 Anniversary date (higher education), 357-01-023 Anniversary date (general government), 357-31-210 What is the maximum number of hours of vacation leave that an employee may accumulate?, and 357-31-215 When may vacation leave be accumulated above the maximum 280 hours?

Hearing Location(s): On August 8, 2024, at 8:30 a.m., Zoom meeting (with call-in option) <https://ofm-wa-gov.zoom.us/j/81889336350?pwd=TzYzY05oL3FrSW5UTnBEeEk5ODVvQT09>, ID 818 8933 6350, Call in 253-215-8782, Passcode 171240.

Date of Intended Adoption: August 15, 2024.

Submit Written Comments to: Brandy Chinn, Office of Financial Management (OFM), 1500 Jefferson Street S.E., P.O. Box 47500, Olympia, WA 98504, email brandy.chinn@ofm.wa.gov, by 11:59 p.m., August 1, 2024.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by 11:59 p.m., August 1, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HB 2246 (chapter 151, Laws of 2024) passed during the 2024 legislative session, with an effective date of June 6, 2024. Section 1 of this bill amends RCW 43.01.040 to increase the annual cap on the accrual of unused vacation leave for state employees from 240 hours to 280 hours. Section 2 of this bill amends RCW 43.01.044 to increase the amount of unused vacation leave that can be deferred above the maximum from 240 hours to 280 hours. The proposed amendments to WAC 357-01-022 and 357-01-023 increase the amount of unused vacation hours higher education and general government employees may accumulate before it is lost on their anniversary date. The proposed amendments to WAC 357-31-210 update the maximum number of vacation leave hours an employee may accumulate from 240 hours to 280 hours without an exception. The proposed amendments to WAC 357-31-215 address when an employee may accumulate vacation leave above the maximum amount of 280 hours, housekeeping amendments, and to reflect gender-neutral pronouns.

Reasons Supporting Proposal: To align chapters 357-01 and 357-31 WAC with the requirements in the new law (chapter 151, Laws of 2024). The proposed amendment to WAC 357-01-022 is housekeeping in nature.

Statutory Authority for Adoption: RCW 41.06.133.

Statute Being Implemented: RCW 43.01.040 and 43.01.044.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-878-2901.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

Rules are related to internal government operations and are not sub-

ject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

July 1, 2024

Nathan Sherrard

Assistant Legal Affairs Counsel

OTS-5367.2

AMENDATORY SECTION (Amending WSR 05-12-093, filed 5/27/05, effective 7/1/05)

WAC 357-01-022 Anniversary date (higher education). For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over (~~((two hundred forty (240)))~~) 280 hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee (~~((promotes, demotes, or transfers))~~) is promoted, demoted, or transferred to another higher education employer.

AMENDATORY SECTION (Amending WSR 22-06-006, filed 2/17/22, effective 7/1/22)

WAC 357-01-023 Anniversary date (general government). For employees of general government agencies, anniversary date is the unbroken service date plus prior state service. The anniversary date is used to determine when vacation leave over (~~((two hundred forty))~~) 280 hours is lost and for computing the rate of vacation leave accrual beginning with the fifth year of total state employment.

OTS-5368.2

AMENDATORY SECTION (Amending WSR 17-18-028, filed 8/28/17, effective 10/2/17)

WAC 357-31-210 What is the maximum number of hours of vacation leave that an employee ((ean)) may accumulate? Vacation leave may be accumulated to a maximum of ((~~two hundred forty~~)) 280 hours. Exceptions to this maximum are described in WAC 357-31-215.

AMENDATORY SECTION (Amending WSR 17-18-028, filed 8/28/17, effective 10/2/17)

WAC 357-31-215 When may vacation leave be accumulated above the maximum ((~~two hundred forty~~)) 280 hours? There are two circumstances in which vacation leave may be accumulated above the maximum of ((~~two hundred forty~~)) 280 hours.

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave ((~~two hundred forty~~)) 280 hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of ((~~two hundred forty~~)) 280 hours as follows:

(a) An employee may accumulate the vacation leave hours between the time the ((~~two hundred forty~~)) 280 hours is accrued and ((his/her)) their next anniversary date of state employment.

(b) Leave accumulated above ((~~two hundred forty~~)) 280 hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of ((~~two hundred forty~~)) 280 hours as of the date of the statement of necessity cannot be deferred regardless of circumstances. For example:

On June 15th, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time.

- On June 15th, the employee's vacation leave balance is ((~~two hundred sixty~~)) 300 hours.

- The employee accrues ((~~ten~~)) 10 hours monthly.

- The employee's anniversary date is October 16th.

Because the employee will not be able to use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The ((~~twenty~~)) 20 hours of excess vacation leave the employee had on June 15th are not covered by the statement of necessity.