

Report From Agency

DEPARTMENT OF ADMINISTRATION DIVISION OF PERSONNEL MANAGEMENT REPORT TO LEGISLATURE

ER 18, Wis. Adm. Code

Clearinghouse Rule 20-089

I. PROPOSED RULE AND SUMMARY:

The proposed rule, including analysis and text, are attached.

II. REFERENCE TO APPLICABLE FORMS:

There are no references to new forms.

III. FISCAL ESTIMATE AND ECONOMIC IMPACT STATEMENT:

The fiscal estimate and economic impact analysis are attached. The proposed rule will have no material impact upon the State's fiscal obligations. The proposed rule will have no material impact on the economy of the state.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The modifications to the existing administrative rules, as found in the corresponding portions of the proposed permanent rules, are based primarily on the response to the COVID-19 pandemic and preparation in the event of a future pandemic. The purpose of the proposed rule changes is to allow employees greater flexibility to use earned sick leave during a public health emergency.

State statutes require the administrator of the division of personnel management to regulate the use of sick leave by state employees. Wis. Stat. § 230.35(2). The proposed rule creates a limited exception that allows the administrator to authorize employees to use sick leave for the care of individuals who require the employee's general care, regardless of whether they are sick or not, for the necessary period of time without requiring prior appointing authority approval. For the exceptions to apply, the individual requiring care must be a member of the employee's immediate family, as defined in s. ER 18.01(4), Wis. Admin. Code, or a child to whom the employee stands in loco parentis, as the term is defined in 29 CFR s. 825.122(d)(3). Furthermore, the reason for care must specifically be related to a public health emergency, and use of sick leave under this exception may not exceed the period of time required for the confinement of the immediate family member requiring care or the closure of schools

or unavailability of child care. The administrator's authorization will be based upon consideration of the nature of the public health emergency and the operational needs of the state.

V. SUMMARY OF PUBLIC COMMENTS, APPEARANCES AT THE PUBLIC HEARING, AND MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The notice for public hearing was posted in the December 28, 2020 issue of the Wisconsin Administrative Register. A public hearing was held on January 26, 2021 by teleconference. No members of the public attended the hearing, no persons appeared or registered for or against the proposed rule, and no written comments were received during the comment period that concluded January 26, 2021. No modifications were made following the hearing, as no public comments or testimony were received.

VI. CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE:

No changes to the Fiscal Estimate were made, as no public comments or testimony were received. No changes to the Rule Analysis were made, as no comments or testimony were received by the public nor the Legislative Council Rule Clearinghouse.

VII. RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT:

The Legislative Council Rules Clearinghouse submitted their report on January 7, 2021 and there were no comments for the rule.

VIII. RESPONSES TO REPORT FROM THE SBRRB AND FINAL REGULATORY ANALYSIS:

The Small Business Regulatory Review Board did not prepare a report on this rule proposal. No regulatory flexibility analysis was required because the rule will not have an effect on small business.

IX. RESPONSE TO ENERGY IMPACT REPORT:

No energy impact report was prepared or required for the proposed rule.

X. HOUSING IMPACT ANALYSIS:

No housing impact analysis was prepared or required for the proposed rule.