



Department of Management Services  
Division of Human Resource Management

# RULE INTERPRETATION

**STATUTE/RULE REFERENCE NUMBER:**

*Section 110.403(1)(c), Florida Statutes (F.S.), Powers and Duties of the Department.*

*Rule 60L-34.004 (13), Florida Administrative Code (F.A.C.), Attendance & Leave- General Requirements for Leave Earning, Approval, and Use.*

**TRACKING NUMBER:**

60L-34-2009-#001

**SUBJECT:**

*Elected Officers and Full-Time Board or Commission Members Opting for Senior Management Service Leave Benefits*

**APPROVAL SIGNATURE:** Sharon D. Larson, Director**EFFECTIVE DATE:**

September 29, 2009

**Question:**

How should State Personnel System agencies administer the provisions of Rule 60L-34.004(13), F.A.C., for an elected officer or full-time board or commission member whose salary is fixed by the Legislature?

**Answer:**

When initially placing such individuals on the payroll, the agency is responsible for advising them of their option (to be exercised within 31 calendar days of the commencement of their term) to receive all the attendance and leave benefits of a Senior Management Service (SMS) employee, but with the stipulation that they shall be subject to all the same rules and regulations governing attendance and leave for SMS employees, including submission of a timesheet every pay period.

Individuals who decline this option should be enrolled in Pay Plan 15. Such individuals should not complete timesheets. (We have requested that the People First System exclude these individuals from missing timesheet reports, but the implementation of this change is pending a future system release.) Individuals who elect to receive SMS leave benefits should be enrolled in Pay Plan 16, as designated by the State Payroll System for this purpose. On the basis of this coding, the People First System will allocate 176 hours of annual leave and 104 hours of sick leave upon hire and every anniversary date. Missing timesheets will appear on the missing timesheet report and should be processed as soon as possible.

For the purpose of administering this rule provision, the conclusion of one term of office and the commencement of a new term of office are distinct "employment" events. Therefore, every time an elected officer is re-elected to the same office or a full-time board/commission member is re-appointed to the same office, he/she should be presented with a new opportunity to receive or not receive SMS leave benefits. Additionally, if such officials previously received SMS leave benefits, but are now making a new election to not receive SMS leave benefits, any annual leave balance remaining from the previous term of office should be paid in accordance with Rule 60L-34.004(6)(b), F.A.C., and the General Appropriations Act. Any sick leave balance remaining from the previous term of office should be paid in accordance with Section 110.122, F.S. Re-elected or re-appointed officials who fail to indicate their choice within 31 calendar days of their re-election shall default to the choice they made at the commencement of their previous term.

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Agencies should require that elected and appointed officials sign and date a document indicating their choice upon initial election/appointment and each re-election/re-appointment. Such documents should be maintained in their personnel file.

Special Consideration Concerning Timesheets

Since "approval" of timesheets by a supervisor is not applicable for agency heads who are elected by the public or who are appointed by an entity external to the employing agency, an appropriate individual within the agency HR Office with the appropriate security role code should be made responsible for ensuring timesheets are processed.

However, those appointed individuals who are direct reports of other individuals within the agency should submit their timesheets for approval as per the usual automated process between employee and supervisor.

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Statute Citation:

**110.403 Powers and duties of the department.--**

(1) In order to implement the purposes of this part, the Department of Management Services, after approval by the Administration Commission, shall adopt and amend rules providing for:

c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

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Rule Citation:

**Rule 60L-34.004(13), F.A.C., Attendance & Leave - General Requirements for Leave Earning, Approval, and Use.**

(13) Within the first thirty-one calendar days of the commencement of each term of office, an elected officer or any full-time board or commission member who has a salary fixed by the Legislature shall have the option to receive credit for annual and sick leave in accordance with this rule; provided, if the person opts to receive leave credits, the person shall be subject to the provisions of this Chapter 60L-34, F.A.C., that apply to members of the senior management service.