



**DEPARTMENT OF MANAGEMENT SERVICES  
DIVISION OF STATE HUMAN RESOURCE MANAGEMENT  
POLICY GUIDELINE**

**STATE PERSONNEL SYSTEM**

**SUBJECT:**

*Rate of Pay Calculation for Overtime, Leave Payouts, and Other Payments*

**POLICY GUIDELINE:** HRM #2023-002

**EFFECTIVE DATE:** Revised January 13, 2025  
Revised January 29, 2024  
(Original Issued March 20, 2023)

**SUPERSEDES:** Program Guidelines on Rate of Pay – Includible Payment Types and Rule Interpretation 60L-34-2008-#004: Leave Payouts – Rate of Pay Calculation

**STATUTES/RULES/REGULATIONS/LAWS:**

*Fair Labor Standards Act of 1938*

*Section 943.22, Florida Statutes (F.S.), Salary incentive program for full-time officers*

*Section 633.422, F.S., Firefighters; supplemental compensation*

*Section 110.122, F.S., Terminal payment for accumulated sick leave*

*Section 110.219, F.S., Attendance and leave; general policies*

*Section 110.403, F.S., Powers and duties of the department*

*Section 110.605, F.S., Powers and duties; personnel rules, records, reports, and performance appraisal*

*Rule 60L-32.0012, Florida Administrative Code (F.A.C.), Pay Additives and Incentive Pay*

*Rule 60L-32.002, F.A.C., Computation of Hourly Rate of Pay*

*Rule 60L-34.0031, F.A.C., Regular Time and Overtime*

*Rule 60L-34.0041, F.A.C., Annual Leave*

*Rule 60L-34.0043, F.A.C., Regular Compensatory Leave*

*Rule 60L-34.0044, F.A.C., Special Compensatory Leave*

**FORMS:** N/A

**ADDITIONAL REFERENCE MATERIALS:** [Employee Group Term Life Certificate of Insurance](#), [Wage Statement](#), and [Payroll Preparation Manual](#)

**SCOPE AND PURPOSE:**

This document clarifies the payment types that are included in the rate of pay used to calculate overtime payments, leave payouts, life insurance premium amounts, extraordinary pay, call-back pay, and workers' compensation (W/C) payments during Temporary Total Disability (TTD) and Temporary Partial Disability (TPD).

**BACKGROUND:**

The Fair Labor Standards Act (FLSA) 29 U.S.C. 201, et seq., stipulates the pay requirements for overtime eligible ("included") employees. Under FLSA, employers must compensate covered employees for all hours worked or permitted to work, and the compensation for all overtime hours must be at the rate of one and one-half times the employees' "regular rate of pay".

FLSA also requires that when a bonus is non-discretionary, it must also be included in the “regular rate of pay” for the purpose of calculating overtime payments in the work period in which the bonus is given. Generally, when non-recurring bonuses are appropriated to state employees on an across-the-board basis, they are considered “non-discretionary” within the meaning of the FLSA.

The calculation of leave payouts is not controlled by the FLSA. Therefore, in determining what should constitute the rate of pay for leave payouts, the State takes into consideration the public interest of fairness by not including sporadic or non-recurring payment types that may unreasonably skew the rate of pay in the pay period in which payment is being processed. For this reason, payments for on-call additives and all bonuses are to be excluded in the calculation of leave payouts.

To determine what payment types are included in the “Life Insurance Premium Pay Period Rate of Pay” below, the [Employee Group Term Life Certificate of Insurance](#) insures earnings “as defined by the employer for purposes of the life insurance program.”

Please see the Procedure section below to determine what is included in the rate of pay for overtime, leave payouts, the Life Insurance Premium Pay Period Rate of Pay, and other payments.

## **DEFINITIONS:**

For the purposes of this document, the following definitions apply:

### **Base Rate of Pay:**

An employee's salary excluding any approved pay additive and incentive pay (as provided in Rule 60L-32.0012, F.A.C.), discretionary or non-discretionary bonus payment, and other legislatively approved agency-specific pay additive.

**CJIP:** Criminal Justice Incentive Pay, as authorized in Section 943.22, F.S.

**FSC:** Firefighters Supplemental Compensation, as authorized in Section 633.422, F.S.

### **People First Hour Types:**

1016 – Career Service Extraordinary Pay

1017 – Selected Exempt Service (SES) Extraordinary Pay

## **PROCEDURE:**

### **A. Included Payment Types for Overtime Rate of Pay**

1. Base Pay
2. Pay Additives (all additives listed in Rule 60L-32.0012(2), F.A.C.)
3. Other Legislatively Authorized Agency Additives (as approved)

4. Incentive Payments (CJIP or FSC)

5. Non-Discretionary Bonuses

**B. Included Payment Types for Leave Payout Rate of Pay**

1. Base Pay

2. Pay Additives (All additives listed in Rule 60L-32.0012(2), F.A.C., except on-call)

3. Other Legislatively Authorized Agency Additives (as approved)

4. Incentive Payments (CJIP or FSC)

**C. Included Payment Types for Life Insurance Premium Pay Period Rate of Pay**

1. Base Pay

2. Pay Additives (All additives listed in Rule 60L-32.0012(2), F.A.C., except on-call)

3. Other Legislatively Authorized Agency Additives (as approved)

**D. Included Payment Types for Extraordinary Payment Plan Rates of Pay**

1. Hours Type 1016 for Career Service Extraordinary Pay

a. Base Pay

b. Pay Additives (All additives listed in Rule 60L-32.0012(2), F.A.C., except on-call)

c. Other Legislatively Authorized Agency Additives (as approved)

d. Incentive Payments (CJIP or FSC)

2. Hours Type 1017 for SES Extraordinary Pay

**Note:** This payment type is only for SES employees; therefore, the rate of pay is always the base rate of pay. Although some SES employees are eligible for CJIP or FSC, these additional forms of compensation were not intended to be included for purposes of extraordinary pay.

**E. Included Payment Types for Call-Back Pay**

1. Base Pay

2. Pay Additives (All additives listed in Rule 60L-32.0012(2), F.A.C., except on-call)

3. Other Legislatively Authorized Agency Additives (as approved)

F. Included Payment Types for “Gross Pay” on the W/C TTD/TPD 13-Week Wage Statement

All Earnings Codes Marked “Y” Under “W2 Gross” in the [Payroll Preparation Manual](#)

**Note:** In addition to “Gross Pay” calculations, the [Wage Statement](#) instructs agencies to include gratuities reported to the agency in writing as taxable income, employer contributions for health insurance, and the reasonable value of housing provided by the employer.

**QUESTIONS AND ANSWERS:**

**Question 1:**

Chapter 60L-34, F.A.C., uses several terms to describe the rate of pay that is to be used in calculating leave payouts. Do these terms all refer to the same rate of pay?

**Answer:**

Yes. The terms “*rate of pay*”, “*straight time regular hourly rate of pay*”, “*payout*” and “*current regular hourly rate of pay*” used throughout Chapter 60L-34, F.A.C., all refer to the same rate of pay. See Question 2 for the definition.

**Question 2:**

Why is the rate of pay used to make a leave payout different from the rate of pay used to make an overtime payment?

**Answer:**

For the purposes of calculating leave payouts and overtime payments, each rate of pay is determined in accordance with the Procedure section above. The “Leave Payout Rate of Pay” differs from the “Overtime Rate of Pay” in that on-call additive payments and non-discretionary bonus payments (both of which are covered by the Fair Labor Standards Act) are not included. This is because on-call and non-discretionary bonus payments are not regularly recurring payments and their inclusion could unreasonably skew some employees’ rate of pay for leave payout purposes. Additionally, for leave payouts, this hourly rate is applied at straight time and multiplied by the number of payable hours to yield the gross amount of the leave payout. For overtime payments, this hourly rate is applied at time and a half (multiplied by 1.5) before being multiplied by the number of payable hours to yield the gross amount of the overtime payment.

**Question 3:**

Is the same rate of pay used for all leave payout types?

**Answer:**

Yes. The “Leave Payout Rate of Pay” cited above should be used for terminal annual, sick, and special compensatory leave paid at the time of separation, retirement, exiting DROP, layoff, or death. For leave payouts associated with entering DROP, the “Leave Payout Rate of Pay” is the rate in effect immediately prior to the employee’s effective date of DROP participation. It should

also be used anytime a payment is processed for FLSA compensatory leave, special compensatory leave, and regular compensatory leave (in accordance with Rule 60L-34.0043[5], F.A.C.).

---

## **APPLICABLE STATUTORY AND RULE CITATIONS:**

### **[Fair Labor Standards Act of 1938](#)**

### **[Section 943.22, F.S., Salary incentive program for full-time officers](#)**

### **[Section 633.422, F.S., Firefighters; supplemental compensation](#)**

### **Section 110.122, F.S., Terminal payment for accumulated sick leave**

(3) The payments authorized by this section shall be determined by using the rate of pay received by the employee at the time of retirement, termination, or death, applied to the sick leave time for which the employee is qualified to receive terminal “incentive” pay under the rules adopted by the department pursuant to the provisions of this section. Rules and policies adopted pursuant to this section shall permit terminal pay for sick leave equal to one-eighth of all unused sick leave credit accumulated prior to October 1, 1973, plus one-fourth of all unused sick leave accumulated on or after October 1, 1973. However, terminal pay allowable for unused sick leave accumulated on or after October 1, 1973, shall not exceed a maximum of 480 hours of actual payment. Employees shall be required to use all sick leave accumulated prior to October 1, 1973, before using sick leave accumulated on or after October 1, 1973.

### **Section 110.219, F.S., Attendance and leave; general policies**

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(a) The maximum responsibility and authority resting with each agency head to administer attendance and leave matters in the agency within the parameters of the rules adopted by the department.

### **Section 110.403, F.S., 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.

**Section 110.605, F.S., Powers and duties; personnel rules, records, reports, and performance appraisal**

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

**[Rule 60L-32.0012, F.A.C., Pay Additives and Incentive Pay](#)**

**Rule 60L-32.002, F.A.C., Computation of Hourly Rate of Pay**

(2) Calculate hourly base rate of pay as follows:

$$\frac{\text{Biweekly Base Rate of Pay} \times 26}{2080 \text{ Hours}} = \text{Hourly Base Rate of Pay}$$

$$\frac{\text{Monthly Base Rate of Pay} \times 12}{2080 \text{ Hours}} = \text{Hourly Base Rate of Pay}$$

(3) Calculate hourly regular rate of pay as follows:

$$\frac{\text{Biweekly Regular Rate of Pay} \times 26}{2080 \text{ Hours}} = \text{Hourly Regular Rate of Pay}$$

$$\frac{\text{Monthly Regular Rate of Pay} \times 12}{2080 \text{ Hours}} = \text{Hourly Regular Rate of Pay}$$

**Rule 60L-34.0031, F.A.C., Regular Time and Overtime**

(4) In lieu of overtime payment, an employee in an included position who is eligible for overtime may, if agreed by the employee and the agency, waive cash payment for overtime, and the agency shall credit FLSA compensatory time as follows:

(c) The agency may allow the accrual and payment of FLSA compensatory leave credits on a biannual or annual basis. The agency shall report in writing to the Department the payment dates they have adopted.

1. An employee accruing and receiving payment biannually shall be allowed to accumulate a maximum of 80 hours of credits. At the close of business on December 31 and June 30 of each year, or two other biannual dates approved by the Department, the agency shall pay the employee for all unused credits at the employee's current straight time regular hourly rate of pay, in accordance with the FLSA.

2. An employee accruing and receiving payment annually shall be allowed to accumulate a maximum of 160 hours of credits. At the close of business on December 31 of each year, or on another annual date approved by the Department, the agency shall pay the employee for all

unused credits at the employee's current straight time regular hourly rate of pay, in accordance with the FLSA.

(d) If the employee separates from the agency or moves to an excluded position with accumulated credits, pay the employee for all unused credits at the employee's current straight time regular hourly rate of pay or the rate in effect when the leave was accrued, whichever is greater, in accordance with the FLSA.

#### **Rule 60L–34.0041, F.A.C., Annual Leave**

(4)(a) At the close of business on December 31 of each calendar year, a career service employee's annual leave balance in excess of 240 hours shall be transferred to sick leave on an hour-for-hour basis. In accordance with an agency-wide plan, the employee may carry-over up to 360 hours of annual leave credits past December 31. For senior management service and selected exempt service employees, at the close of business on the day before the member's anniversary date, all annual leave credits in excess of 480 hours shall be converted to sick leave on an hour-for-hour basis.

(b) Each December, a permanent career service employee shall be entitled, subject to the available funds, to a payout of up to twenty-four hours of unused annual leave provided:

1. After the payout, the employee's annual leave balance is at least twenty-four hours.
2. The cumulative payout shall not exceed the lifetime maximum described in paragraph 60L-34.0041(6)(a), F.A.C.

(6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. With respect to leave payments received at the time of separation, agencies shall only include payments for separations occurring after December 31, 2001 in the calculation of the lifetime maximum. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(b) A senior management service or selected exempt service employee who separates from state government shall be paid for unused annual leave up to a maximum of 480 hours, with the current year's accrual prorated. In case of death of an employee, the 480-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(c) An employee with twelve months of service, who is being laid off, shall be paid for all unused annual leave in accordance with this section, unless the employee requests in writing that the annual leave be retained up to a maximum of one year, pending reemployment.

1. If the employee is not reemployed within one year, unused annual leave held in abeyance shall be paid for in accordance with this section.
2. If the employee is reemployed within one year, annual leave credits shall be restored if the employee so requests in writing and repays the full amount of any lump-sum payment received for accumulated annual leave credits.

(d) An employee electing to participate in DROP may request payment for accrued annual leave at the time of entry into DROP; alternatively, the employee may elect to defer payment until separation from service. If an employee elects immediate payment, then upon separation from service the employee shall be eligible for accrued annual leave payment only to the extent the employee has earned additional annual leave, which combined with the original payment does not exceed the applicable maximum amount specified in paragraph (a) or (b) of this subsection 60L-34.0041(6), F.A.C.

**Rule 60L-34.0043, F.A.C., Regular Compensatory Leave**

(5) An agency may propose for Department approval a fiscally sound agency-wide plan for the payment on an hour-for-hour basis of unused regular compensatory leave credits, subject to the following.

(a) No cash payments shall be made for any regular compensatory leave credits earned prior to the effective date of the plan.

(b) Payment shall be made at the employee's straight time regular hourly rate of pay.

(c) Payment shall be made in a lump sum, and may be made annually or at more frequent intervals as determined by the agency.

(d) An employee who becomes ineligible, or is otherwise not covered by the agency's plan, shall at that time be paid for the appropriate balance.

**Rule 60L-34.0044, F.A.C., Special Compensatory Leave**

(1) When an employee separates from an agency, the agency shall pay the employee for unused special compensatory leave credits at the employee's current regular hourly rate of pay, unless otherwise provided in an applicable collective bargaining agreement.

(2) Leave credits shall not transfer to another agency or pay plan. Upon the employee's transfer to another agency or pay plan, the agency shall pay the employee for unused special compensatory leave credits at the employee's current regular hourly rate of pay, unless otherwise provided in an applicable collective bargaining agreement.

(4) Unused special compensatory leave credits for a Career Service employee who is laid off shall be paid in lump-sum, based on the employee's current regular hourly rate of pay at the time of layoff, unless otherwise provided in an applicable collective bargaining agreement.

(5) At the time of entry into the DROP, an employee electing to participate in the program may request payment of unused special compensatory leave that was earned within eleven months before entry into the DROP, unless otherwise provided in an applicable collective bargaining agreement.

<b>PREPARER'S INITIALS:</b> JDA/SMB
<b>FILE PATH:</b> HRM-Main\HRM Policy Communications\Policy Guidelines\Final