

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/21/99

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing:

This file may be shown to any legislator: NO

Drafter: nilsepe

May Contact:

Alt. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies:

Pre Topic:

SDC:..... -

Topic:

Administrator of state patrol

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 06/21/99	gilfokm 06/21/99		_____			
/1			martykr 06/22/99	_____	gretskl 06/22/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Senate Amendment (SA-ASA1-AB133)

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1?	nilsepe	11-6-21-99 KMG	KMG 22	LL KMG 22			

FE Sent For:

<END>

yes

SDC 60810

Agency: **Employee Trust Funds**

caucus number: 2724

duplicate flag:
duplicate with:

Other reference numbers:	Paper 405 alt 2	LFB Sum #:
bill number/amendment number:		
LRB draft #		LRB P-draft:

description: Protective Service Status for Division of State Patrol Administrator. Adopt alt. 2 to Paper 405 which does not give the State Patrol Administrator Protective Service Status.

other notes:

drafting instructions: Adopt alt 2 to Paper 405 (see above)

more instructions:

caucus number: 2725

duplicate flag:
duplicate with:

Other reference numbers:	FM 301	LFB Sum #:
bill number/amendment number:		
LRB draft #		LRB P-draft:

description: Group Insurance Board. Delete FM 301 which deletes law limitations which bar the Group Insurance Board from offering long-term care insurance on a self-insured basis.

other notes:

drafting instructions: Delete Freestanding Motion 301 (see above)

more instructions:

Agency **Employee Trust Funds**

Number of Amendments: 2

SoL 835

Yank LRB-0797/2

CV 2724

Adopt Alternative 2 to Paper 405, which does not give the State Patrol Administrator Protective Service Status.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 29, 1999

Joint Committee on Finance

Paper #405

Protective Service Status for Division of State Patrol Administrator (ETF)

[LFB 1999-01 Budget Summary: Page 206, #11]

CURRENT LAW

Wisconsin Retirement System (WRS) participants are deemed protective occupation participants if they meet three statutory criteria: (1) their principal duties involve active law enforcement or active fire suppression or fire prevention; and (2) those duties: (a) require frequent exposure to a high degree of danger or peril; and (b) also require a high degree of physical conditioning. However, notwithstanding these specific requirements for designation as a protective occupation participant under the WRS, the statutes also enumerate a number of specific state position classifications, the holders of which positions as a result of this statutory enumeration are deemed to be protective category WRS participants regardless of whether their job duties otherwise meet the above statutory criteria.

GOVERNOR

Statutorily enumerate as a protective occupation participant under the WRS, the holder of any authorized unclassified position in the Department of Transportation (DOT) in which the occupant functions as the Administrator of the Division of State Patrol. Further, specify that the protective occupation designation would occur only where the holder of that specific administrator position is also certified as a law enforcement officer by the Law Enforcement Standards Board. Provide that these provisions would take effect on January 1, 2000. Retitle all state patrol members who are protective occupation WRS participants as "state traffic patrol" participants and create new language specifying that a member of the state traffic patrol includes a Division of State Patrol Administrator who meets the additional requirement identified above.

DISCUSSION POINTS

1. As a result of designating the occupant of Administrator of the Division of State Patrol position as a protective category employe under the WRS, a qualified individual holding this position would be eligible for the following additional benefits: (a) early retirement at age 50 [rather than at age 55 for other WRS participants]; (b) normal retirement at age 54, or at age 53 after twenty-five years of service [rather than age 65 for general participants or age 62 for state elected or appointed participants]; and (c) coverage under the s. 40.65 duty disability program. The WRS formula factor for retirement benefit purposes would be the same [2.0%] regardless of whether the occupant of the Administrator position would be designated as a protective category employe or just a standard unclassified Division Administrator.

2. In reviewing the protective service status of recent administrators of the Division of State Patrol, it has been determined that DOT has in the past petitioned the Department of Employment Relations (DER) under current law procedures to approve designating such administrators as protective service participants for WRS purposes.

3. Under current law, a state agency may designate an employe as a protective occupation WRS participant only following a review and approval of that designation by DER. Typically, DER approves the designation if it determines: (a) that the position meets the three statutory criteria cited previously; or (b) the position is specifically enumerated as a protective classification status position under s. 40.02(48)(am) of the statutes.

4. On February 9, 1999, DER formally approved designating the current Administrator of the Division of State Patrol as a protective service participant under the WRS. A similar determination was made on January 28, 1994, with respect to the current Administrator's predecessor. Staff in DER indicate that these determinations were made based on the fact that each administrator so designated was still a member of the State Patrol by virtue of his being on a leave of absence from a classified position in the State Patrol. In DER's view, the individuals in question did not cease to be members of the State Patrol (a statutorily enumerated protective service position) simply by accepting the unclassified Administrator position.

5. Further, DER noted that the determination was additionally supported by the fact that the statutes currently recognize that police and fire chiefs are also deemed to still be police officers and fire fighters, respectively. Since both of these types of positions (police officers and fire fighters) are specifically enumerated protective service participants, the chiefs are also considered protective participants. By analogy, DER concluded that a member of the State Patrol would similarly include the head (that is, the Administrator) of the State Patrol as a protective classification employe.

6. As a part of both its 1994 and 1999 actions, DER recommended that the statutes be amended to specifically identify the unclassified Administrator of the Division of State Patrol as a member of the State Patrol in order to eliminate any future ambiguity concerning the protective occupation status of this position. It has been noted that this recommendation was also made

because in the future there may be law enforcement professionals appointed to the Administrator position who are not on leave of absence from the State Patrol. In this type of situation, DER has indicated that it is less likely there would be a favorable determination to grant protective service status to such an individual. The DOT also argues that this type of statutory change would enhance its future ability to recruit nationwide among law enforcement professionals to fill this Administrator position. If the Committee believes that the statutes should be revised to accord protective classification status to the Administrator position, it could approve the Governor's recommendation.

7. On the other hand, in light of the fact that recent administrators of the Division of State Patrol, including the current Administrator, have all been granted protective status under current law procedures, the Committee could question whether the proposed change is required at this particular time.

8. In addition, there is a larger policy question that may be raised. This question is whether the legislative precedent of statutorily enumerating as a protective occupation participant who as a division administrator has responsibilities that include managing employees who are predominantly protective occupation participants will result in other potentially similarly situated administrator positions in the Departments of Corrections, Justice, Natural Resources and Revenue to seek similar treatment. The Committee could choose not to adopt such precedent at this time and instead take the position that the issue should receive a fuller review by the Retirement Research Committee, particularly because the change is not needed with regard to current Administrator's status.

ALTERNATIVES

1. Approve the Governor's recommendation.
2. Maintain current law.

Approved

67-6-10

Prepared by: Tony Mason

1999

Date (time) needed

Senate

LRB b 0810 1 1

CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]

PEN: King

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

40.02
& 48.02
6/14

✓ #. Page 533, line 6...: delete lines 6 to 23.

✓ #. Page 1012, line 5...: delete lines 5 to 16 and substitute

insert
1

→ #. Page 1615, line 13...: delete lines 13 and 14. ✓

(END)

#. Page, line:

#. Page, line:

#. Page, line:

insert
1

Section #. 110.07 (1) (a) (intro.) of the statutes is amended to read:



No 9

" 399

110.07 (1) (a) (intro.) The secretary shall employ not to exceed 385 traffic officers. Such traffic officers, in addition to the person designated to head them whose position shall be in the classified service, shall constitute the state traffic patrol, and shall: "

History: 1971 c. 40, 125; 1973 c. 90, 146; 1975 c. 297; 1977 c. 29 ss. 1048, 1654 (7) (a), (c), 1656 (43); 1977 c. 305 s. 64; 1977 c. 418; 1979 c. 221; 1979 c. 333 s. 5; 1979 c. 361 s. 113; 1981 c. 96 s. 67; 1981 c. 390; 1983 a. 27; 1983 a. 175 s. 33; 1983 a. 191 s. 6; 1985 a. 29, 36, 63, 332; 1987 a. 332 s. 64; 1989 a. 31, 167, 170, 240, 335, 359; 1993 a. 25; 1995 a. 201, 227, 341.

(end insert)

