



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0798/P1
RAC&CMH:sac:rs

P2

DOA:.....Waterman, BB0302 – Attach Wisconsin Employment Relations Commission (WERC) to Department of Workforce Development
FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

do not pass

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
STATE GOVERNMENT
STATE EMPLOYMENT

This bill attaches the Wisconsin Employment Relations Commission (WERC) to DWD. Currently, WERC is an independent state agency. The bill removes newly-appointed commissioners from Executive Salary Group 5 and instead has their salaries established in the state compensation plan. Finally, the bill eliminates a requirement that commissioners may not have other employment while serving on the WERC.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 2 SECTION 1. 15.06 (3) (a) 4. of the statutes is created to read:
3 15.06 (3) (a) 4. The members of the employment relations commission.

SECTION 2

SECTION 2. 15.06 (4m) of the statutes is amended to read:

15.06 (4m) EXECUTIVE ASSISTANT. Each ~~commission chairperson~~ under s. 230.08 (2) (m) and each commissioner of the public service commission may appoint an executive assistant to serve at his or her pleasure outside the classified service. The executive assistant shall perform duties as the ~~chairperson~~ or commissioner prescribes.

SECTION 3. 15.58 of the statutes is renumbered 15.225 (2) and amended to read:

15.225 (2) EMPLOYMENT RELATIONS COMMISSION; ~~CREATION~~. There is created an employment relations commission which is attached to the department of workforce development under s. 15.03.

SECTION 4. 20.425 (intro.) of the statutes is repealed.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 5. 20.425 (1) (title) of the statutes is repealed.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 6. 20.425 (1) (a) and (i) of the statutes are renumbered 20.445 (3) (a) and (b).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 7. 20.923 (4) (e) 2. of the statutes is repealed.

SECTION 8. 111.07 (2) (d) of the statutes is amended to read:

~~111.07 (2) (d) Each witness who appears before the commission by its order or subpoena at the request of the commission on its own motion shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers~~

1 approved by the chairperson of the commission and charged to the appropriation
2 under s. ~~20.425 (1)~~ 20.445 (3) (a). Each witness who appears before the commission
3 as a result of an order or subpoena issued by the commission at the request of a party
4 shall receive for his or her attendance the fees and mileage as provided for witnesses
5 in civil cases in courts of record, which shall be paid by the party requesting the order
6 or subpoena in advance of the time set in the order or subpoena for attendance.

7 **SECTION 9.** 111.09 (1) of the statutes is amended to read:

8 111.09 (1) The commission may adopt reasonable and proper rules and
9 regulations relative to the exercise of its powers and authority and proper rules to
10 govern its proceedings and to regulate the conduct of all elections and hearings. The
11 commission shall, upon request, provide a transcript of a proceeding to any party to
12 the proceeding for a fee, established by rule, by the commission at a uniform rate per
13 page. All transcript fees shall be credited to the appropriation account under s.
14 ~~20.425 (1) (i)~~ 20.445 (3) (b).

15 **SECTION 10.** 111.09 (2) of the statutes is amended to read:

16 111.09 (2) The commission shall assess and collect a filing fee for filing a
17 complaint alleging that an unfair labor practice has been committed under s. 111.06.
18 The commission shall assess and collect a filing fee for filing a request that the
19 commission act as an arbitrator to resolve a dispute involving the interpretation or
20 application of a collective bargaining agreement under s. 111.10. The commission
21 shall assess and collect a filing fee for filing a request that the commission act as a
22 mediator under s. 111.11. The commission shall assess and collect a filing fee for
23 filing a request that the commission initiate arbitration under s. 111.10. For the
24 performance of commission actions under ss. 111.10 and 111.11, the commission shall
25 require that the parties to the dispute equally share in the payment of the fee and,

1 for the performance of commission actions involving a complaint alleging that an
2 unfair labor practice has been committed under s. 111.06, the commission shall
3 require that the party filing the complaint pay the entire fee. If any party has paid
4 a filing fee requesting the commission to act as a mediator for a labor dispute and the
5 parties do not enter into a voluntary settlement of the labor dispute, the commission
6 may not subsequently assess or collect a filing fee to initiate arbitration to resolve
7 the same labor dispute. If any request for the performance of commission actions
8 concerns issues arising as a result of more than one unrelated event or occurrence,
9 each such separate event or occurrence shall be treated as a separate request. The
10 commission shall promulgate rules establishing a schedule of filing fees to be paid
11 under this subsection. Fees required to be paid under this subsection shall be paid
12 at the time of filing the complaint or the request for mediation or arbitration. A
13 complaint or request for mediation or arbitration is not filed until the date such fee
14 or fees are paid. Fees collected under this subsection shall be credited to the
15 appropriation account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

16 **SECTION 11.** 111.53 of the statutes is amended to read:

17 **111.53 Appointment of conciliators and arbitrators.** Within 30 days after
18 July 25, 1947, the commission shall appoint a panel of persons to serve as conciliators
19 or arbitrators under this subchapter. No person shall serve as a conciliator and
20 arbitrator in the same dispute. Each person appointed to said panels shall be a
21 resident of this state, possessing, in the judgment of the commission, the requisite
22 experience and judgment to qualify such person capably and fairly to deal with labor
23 dispute problems. All such appointments shall be made without a consideration of
24 the political affiliations of the appointee. Each appointee shall take an oath to
25 perform honestly and to the best of the appointee's ability the duties of conciliator

1 or arbitrator, as the case may be. Any appointee may be removed by the commission
2 at any time or may resign his or her position at any time by notice in writing to the
3 commission. Any vacancy in the panels shall be filled by the commission within 30
4 days after such vacancy occurs. Such conciliators and arbitrators shall be paid
5 reasonable compensation for services and for necessary expenses, in an amount to
6 be fixed by the commission, such compensation and expenses to be paid out of the
7 appropriation made to the commission by s. ~~20.425~~ 20.445 (3) upon such
8 authorizations as the commission may prescribe.

9 **SECTION 12.** 111.70 (4) (d) 3. b. of the statutes is amended to read:

10 111.70 (4) (d) 3. b. Annually, the commission shall conduct an election to certify
11 the representative of the collective bargaining unit that contains a general municipal
12 employee. The election shall occur no later than December 1 for a collective
13 bargaining unit containing school district employees and no later than May 1 for a
14 collective bargaining unit containing general municipal employees who are not
15 school district employees. The commission shall certify any representative that
16 receives at least 51 percent of the votes of all of the general municipal employees in
17 the collective bargaining unit. If no representative receives at least 51 percent of the
18 votes of all of the general municipal employees in the collective bargaining unit, at
19 the expiration of the collective bargaining agreement, the commission shall decertify
20 the current representative and the general municipal employees shall be
21 nonrepresented. Notwithstanding sub. (2), if a representative is decertified under
22 this subd. 3. b., the affected general municipal employees may not be included in a
23 substantially similar collective bargaining unit for 12 months from the date of
24 decertification. The commission shall assess and collect a certification fee for each

1 election conducted under this subd. 3. b. Fees collected under this subd. 3. b. shall
2 be credited to the appropriation account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

3 **SECTION 13.** 111.71 (1) of the statutes is amended to read:

4 111.71 (1) The commission may adopt reasonable rules relative to the exercise
5 of its powers and authority and proper rules to govern its proceedings and to regulate
6 the conduct of all elections and hearings. The commission shall, upon request,
7 provide a transcript of a proceeding to any party to the proceeding for a fee,
8 established by rule, by the commission at a uniform rate per page. All transcript fees
9 shall be credited to the appropriation account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

10 **SECTION 14.** 111.71 (2) of the statutes is amended to read:

11 111.71 (2) The commission shall assess and collect a filing fee for filing a
12 complaint alleging that a prohibited practice has been committed under s. 111.70 (3).
13 The commission shall assess and collect a filing fee for filing a request that the
14 commission act as an arbitrator to resolve a dispute involving the interpretation or
15 application of a collective bargaining agreement under s. 111.70 (4) (c) 2., (cg) 4., or
16 (cm) 4. The commission shall assess and collect a filing fee for filing a request that
17 the commission initiate fact-finding under s. 111.70 (4) (c) 3. The commission shall
18 assess and collect a filing fee for filing a request that the commission act as a
19 mediator under s. 111.70 (4) (c) 1., (cg) 3., or (cm) 3. The commission shall assess and
20 collect a filing fee for filing a request that the commission initiate compulsory, final
21 and binding arbitration under s. 111.70 (4) (cg) 6. or (jm) or 111.77 (3). For the
22 performance of commission actions under ss. 111.70 (4) (c) 1., 2. and 3., (cg) 3., 4., and
23 6., (cm) 3. and 4., and (jm) and 111.77 (3), the commission shall require that the
24 parties to the dispute equally share in the payment of the fee and, for the
25 performance of commission actions involving a complaint alleging that a prohibited

1 practice has been committed under s. 111.70 (3), the commission shall require that
2 the party filing the complaint pay the entire fee. If any party has paid a filing fee
3 requesting the commission to act as a mediator for a labor dispute and the parties
4 do not enter into a voluntary settlement of the dispute, the commission may not
5 subsequently assess or collect a filing fee to initiate fact-finding or arbitration to
6 resolve the same labor dispute. If any request for the performance of commission
7 actions concerns issues arising as a result of more than one unrelated event or
8 occurrence, each such separate event or occurrence shall be treated as a separate
9 request. The commission shall promulgate rules establishing a schedule of filing fees
10 to be paid under this subsection. Fees required to be paid under this subsection shall
11 be paid at the time of filing the complaint or the request for fact-finding, mediation
12 or arbitration. A complaint or request for fact-finding, mediation or arbitration is
13 not filed until the date such fee or fees are paid, except that the failure of the
14 respondent party to pay the filing fee for having the commission initiate compulsory,
15 final and binding arbitration under s. 111.70 (4) (cg) 6. or (jm) or 111.77 (3) may not
16 prohibit the commission from initiating such arbitration. The commission may
17 initiate collection proceedings against the respondent party for the payment of the
18 filing fee. Fees collected under this subsection shall be credited to the appropriation
19 account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

20 **SECTION 15.** 111.83 (3) (b) of the statutes is amended to read:

21 111.83 (3) (b) Annually, no later than December 1, the commission shall
22 conduct an election to certify the representative of a collective bargaining unit that
23 contains a general employee. There shall be included on the ballot the names of all
24 labor organizations having an interest in representing the general employees
25 participating in the election. The commission may exclude from the ballot one who,

1 at the time of the election, stands deprived of his or her rights under this subchapter
2 by reason of a prior adjudication of his or her having engaged in an unfair labor
3 practice. The commission shall certify any representative that receives at least 51
4 percent of the votes of all of the general employees in the collective bargaining unit.
5 If no representative receives at least 51 percent of the votes of all of the general
6 employees in the collective bargaining unit, at the expiration of the collective
7 bargaining agreement, the commission shall decertify the current representative
8 and the general employees shall be nonrepresented. Notwithstanding s. 111.82, if
9 a representative is decertified under this paragraph, the affected general employees
10 may not be included in a substantially similar collective bargaining unit for 12
11 months from the date of decertification. The commission's certification of the results
12 of any election is conclusive unless reviewed as provided by s. 111.07 (8). The
13 commission shall assess and collect a certification fee for each election conducted
14 under this paragraph. Fees collected under this paragraph shall be credited to the
15 appropriation account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

16 **SECTION 16.** 111.94 (1) of the statutes is amended to read:

17 111.94 (1) The commission may adopt reasonable and proper rules relative to
18 the exercise of its powers and authority and proper rules to govern its proceedings
19 and to regulate the conduct of all elections and hearings. The commission shall, upon
20 request, provide a transcript of a proceeding to any party to the proceeding for a fee,
21 established by rule, by the commission at a uniform rate per page. All transcript fees
22 shall be credited to the appropriation account under s. ~~20.425 (1) (i)~~ 20.445 (3) (b).

23 **SECTION 17.** 111.94 (2) of the statutes is amended to read:

24 111.94 (2) The commission shall assess and collect a filing fee for filing a
25 complaint alleging that an unfair labor practice has been committed under s. 111.84.

1 The commission shall assess and collect a filing fee for filing a request that the
2 commission act as an arbitrator to resolve a dispute involving the interpretation or
3 application of a collective bargaining agreement under s. 111.86. The commission
4 shall assess and collect a filing fee for filing a request that the commission initiate
5 fact-finding under s. 111.88. The commission shall assess and collect a filing fee for
6 filing a request that the commission act as a mediator under s. 111.87. For the
7 performance of commission actions under s. 111.86, 111.87 and 111.88, the
8 commission shall require that the parties to the dispute equally share in the payment
9 of the fee and, for the performance of commission actions involving a complaint
10 alleging that an unfair labor practice has been committed under s. 111.84, the
11 commission shall require that the party filing the complaint pay the entire fee. If any
12 party has paid a filing fee requesting the commission to act as a mediator for a labor
13 dispute and the parties do not enter into a voluntary settlement of the labor dispute,
14 the commission may not subsequently assess or collect a filing fee to initiate
15 fact-finding to resolve the same labor dispute. If any request concerns issues arising
16 as a result of more than one unrelated event or occurrence, each such separate event
17 or occurrence shall be treated as a separate request. The commission shall
18 promulgate rules establishing a schedule of filing fees to be paid under this
19 subsection. Fees required to be paid under this subsection shall be paid at the time
20 of filing the complaint or the request for fact-finding, mediation or arbitration. A
21 complaint or request for fact-finding, mediation or arbitration is not filed until the
22 date such fee or fees are paid. Fees collected under this subsection shall be credited
23 to the appropriation account under s. 20.425 (1) (i) 20.445 (3) (b).

24 **SECTION 18.** 230.08 (2) (m) of the statutes is repealed.

25 **SECTION 19.** 230.08 (4) (d) of the statutes is amended to read:

1 230.08 (4) (d) The division administrator appointed under sub. (2) (e) 4. shall
2 be an attorney and shall be appointed by the chairperson of the employment
3 relations commission.

4 **SECTION 20.** 230.45 (3) of the statutes is amended to read:

5 230.45 (3) ~~The commission shall promulgate rules establishing a schedule of~~
6 ~~filing fees to be paid by any person who files an appeal under sub. (1) (c) or s. 230.44~~
7 ~~(1) (a) or (b) with the commission on or after the effective date of the rules~~
8 ~~promulgated under this subsection. Fees paid under this subsection shall be credited~~
9 ~~to the appropriation account under s. ~~20.425 (1) (i)~~ ~~20.445 (3) (b).~~~~

10 **SECTION 9113. Nonstatutory provisions; Employment Relations**
11 **Commission.**

12 (1) TRANSFER OF EMPLOYMENT RELATIONS COMMISSION TO DEPARTMENT OF
13 WORKFORCE DEVELOPMENT.

14 (a) *Employee transfers.* The incumbent division administrator of the
15 employment relations commission and all incumbent employees holding positions in
16 the employment relations commission are transferred on the effective of this
17 paragraph to the department of workforce development.

18 (b) *Employee status.* Employees transferred under paragraph (a) have all the
19 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
20 statutes in the department of workforce development that they enjoyed in the
21 employment relations commission immediately before the transfer.
22 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
23 has attained permanent status in class is required to serve a probationary period.

24 **SECTION 9313. Initial applicability; Employment Relations**
25 **Commission.**



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0798/P2
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P3

RMC

DOA:.....Waterman, BB0302 – Attach Wisconsin Employment Relations Commission (WERC) to Department of Workforce Development

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT *do not give*; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

STATE EMPLOYMENT

This bill attaches the Wisconsin Employment Relations Commission (WERC) to DWD. Currently, WERC is an independent state agency. The bill removes newly-appointed commissioners from Executive Salary Group 5 and instead has their salaries established in the state compensation plan. Finally, the bill eliminates a requirement that commissioners may not have other employment while serving on the WERC.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 15.06 (3) (a) 4. of the statutes is created to read:

3 15.06 (3) (a) 4. The members of the employment relations commission.

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2 15.06 (4m) EXECUTIVE ASSISTANT. Each ~~commission chairperson~~ under s. 230.08
3 (2) (m) ~~and each~~ commissioner of the public service commission may appoint an
4 executive assistant to serve at his or her pleasure outside the classified service. The
5 executive assistant shall perform duties as the ~~chairperson or~~ commissioner
6 prescribes.

7 **SECTION 3.** 15.58 of the statutes is renumbered 15.225 (2) and amended to read:

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10 development under s. 15.03.

11 **SECTION 4.** 20.923 (4) (e) 2. of the statutes is repealed.

12 **SECTION 5.** 230.08 (2) (m) of the statutes is repealed.

13 **SECTION 6.** 230.08 (4) (d) of the statutes is amended to read:

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15 be an attorney and shall be appointed by the chairperson of the employment
16 relations commission.

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22 ~~employment relations commission~~ and all incumbent employees holding positions in
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2 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
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4 employment relations commission immediately before the transfer.
5 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
6 has attained permanent status in class is required to serve a probationary period.

7 **SECTION 9313. Initial applicability; Employment Relations**
8 **Commission.**

9 (1) COMPENSATION AND WORK STATUS OF COMMISSIONERS. The treatment of
10 sections 15.06 (3) (a) 4. and 20.923 (4) (e) 2. of the statutes first applies to employment
11 relations commissioners appointed to office on the effective date of this subsection.

12

(END)

Champagne, Rick

From: Waterman, Mickie D - DOA <Mickie.Waterman@wisconsin.gov>
Sent: Monday, January 14, 2013 5:13 PM
To: Kraus, Jennifer - DOA; Champagne, Rick
Subject: RE: Statutory Language Drafting Request - BB0302

Sorry, it should be the effective date of the budget.

Thanks.

From: Kraus, Jennifer - DOA
Sent: Monday, January 14, 2013 5:12 PM
To: Waterman, Mickie D - DOA
Subject: RE: Statutory Language Drafting Request - BB0302

7/1/13 or the effective date of the budget?

From: Waterman, Mickie D - DOA
Sent: Monday, January 14, 2013 5:11 PM
To: Champagne, Rick - LEGIS
Cc: Kraus, Jennifer - DOA
Subject: RE: Statutory Language Drafting Request - BB0302

Hi Rick,

The decision for this one is that we want to reduce the Commissioners to 2/3 time effective 7/1/13. I believe this can be done through the current draft.

The Governor will ask the Commissioners to resign on 6/30 and then reappoint so that all of them will be at 2/3 effective 7/1.

DOA Tracking Code: BB0302
LRB Draft Number: 0798/P3

I don't believe we need changes to the current draft. Correct?

Thanks,
Mickie

From: Waterman, Mickie D - DOA
Sent: Wednesday, January 09, 2013 9:40 AM
To: Champagne, Rick - LEGIS (Rick.Champagne@legis.wisconsin.gov)
Cc: Kraus, Jennifer - DOA
Subject: FW: Statutory Language Drafting Request - BB0302

Hi Rick,

Could you update this draft to have the Commission abolished and replaced with a board attached to DWD?

Our intent would still be to have them go to two-thirds time (not 60% as we originally requested) and allow them to have other employment.

Thanks,
Mickie

From: Scott.Thornton@Wisconsin.Gov [mailto:Scott.Thornton@Wisconsin.Gov]
Sent: Tuesday, December 18, 2012 12:40 PM
To: Waterman, Mickie D - DOA
Cc: Thornton, Scott - DOA; Sachse, Diane - DOA; Kraus, Jennifer - DOA
Subject: Attach Wisconsin Employment Relations Commission (WERC) to Department of Workforce Development

We have received an LRB draft for DOA Tracking Code: BB0302

LRB Draft Number: 0798/P3

Drafting Attorney: Richard A. Champagne
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

The document can be found in the Stat Language site on SharePoint.

From: mickie.waterman@wisconsin.gov [mailto:mickie.waterman@wisconsin.gov]
Sent: Tuesday, December 11, 2012 11:05 AM
To: Hanaman, Cathlene - LEGIS
Cc: Kraus, Jennifer - DOA; Waterman, Mickie D - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request - BB0302

Biennial Budget: 2013-15

DOA Tracking Code: BB0302

Topic: Attach WERC to DWD

SBO Team: GGCF

SBO Analyst: Waterman, Mickie D - DOA
Phone: (608) 266-1072
E-mail: mickie.waterman@wisconsin.gov

Agency Acronym: WERC

Agency Number: 425

Priority: Medium

Intent:

Attach WERC to DWD (similar to LIRC).

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov



copy
RMR

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FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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Insert A →

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0798/P4ins
RAC&CMH:sac:rs

A

SECTION 1. 15.06 (3) (c) of the statutes is created to read:

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Per Jenny & Mickie

- Keep in ESG 5, but

2/3 FTE position



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0798/P4
RAC&CMH:sac:fs

PS
RMR

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newly-appointed
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3 (END)



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2 **SECTION 1.** 15.06 (3) (a) 4. of the statutes is created to read:

3 15.06 (3) (a) 4. The members of the employment relations commission.

4 **SECTION 2.** 15.06 (3) (c) of the statutes is created to read:

