



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

<b>2015 Assembly Bill 373</b>	<b>Assembly Amendments 1 and 2</b>
<i>Memo published:</i> November 4, 2015	<i>Contact:</i> Margit S. Kelley, Senior Staff Attorney (266-9280) Scott Grosz, Principal Attorney (266-1307)

### **2015 ASSEMBLY BILL 373**

2015 Assembly Bill 373 revises certain aspects of the state civil service laws for classified employees. Those revisions apply to the hiring process, probationary periods, merit compensation awards, disciplinary actions, and separations from service. The bill also requires certain administrative planning actions by the Department of Administration (DOA) and its Division of Personnel Management (DPM).

Assembly Amendment 1 makes several substantive changes to the bill, as well as modifications to cross references and other technical changes. Assembly Amendment 2 revises the agencies that are subject to review under the required administrative planning actions. Provisions of the bill that are affected by Assembly Amendments 1 and 2 are described in turn, below.

### **EXAMINATION PROCESS**

#### **The Bill**

The bill revises the examination process required under current law to instead require a person in all cases to submit a resume when applying for a position in the classified service. The bill specifies that “competitive procedures” replace the examination process, and, that, as under current law, all selection criteria must be job-related.

#### **Assembly Amendment 1**

Assembly Amendment 1 replaces certain references to “resumes” and “competitive procedures” in the hiring process with references to “selection processes.” The amendment also modifies the language used to describe the hiring process for vacancies in career executive

positions, and specifies that an agency must fill those vacancies using an open competitive process, with due consideration given to affirmative action.

## **VETERAN'S PREFERENCE SYSTEM**

### **The Bill**

The bill removes the preference points system under current law, for veterans who are applying for state civil service positions, and removes the automatic inclusion of the highest-ranked disabled veteran in a certification list.

Instead of a point system, the bill specifies that if a certification list includes a veteran, the veteran must be offered an interview. Likewise, if a certification list includes the unremarried spouse of a veteran who was killed in action or died of a service-connected disability, or includes a spouse of a disabled veteran who has at least a 70% disability, the spouse must be offered an interview.

In making a hiring determination, the bill specifies that if qualifications and skills are equal between the veteran and other applicants who are being interviewed for the position, preference must be given to a veteran.

### **Assembly Amendment 1**

Assembly Amendment 1 specifies a new process for the treatment of veterans under the civil service hiring process. After a basic certification list is established, the names of the three highest ranking disabled veterans whose disability is at least 70% and the three highest ranked individuals each of whom is the spouse of a disabled veteran whose disability is at least 70% must be added to the certification list. Additionally, the following individuals must also be added to the certification list:

- The three highest ranked veterans.
- The three highest ranked disabled veterans not previously certified.
- The three highest ranked individuals each of whom is an unmarried spouse of a veteran who was killed in action.
- The three highest ranked individuals each of whom is an unmarried spouse of a veteran who died of a service-connected disability.

Finally, under the amendment, if a veteran is included on a certification list and if the minimum qualifications and skills, abilities, competencies, and knowledge of the veteran and any other applicant are equal, the agency must give a preference to the veteran for the position.

## **PROBATION**

### **The Bill**

The bill specifies that all employees must serve a two-year probationary period, rather than a probationary period between six months and two years depending on the position, as required under current law. If the agency requests a shorter probationary period, DPM may waive any portion of the second year of the probationary period.

### **Assembly Amendment 1**

Assembly Amendment 1 specifies a one-year probationary period, which may be extended up to an additional 12 months subject to a subsequent waiver of any additional extension. Assembly Amendment 1 also deletes a provision of current law that prohibits the waiver of a probationary period for a supervisor prior to completion of a supervisory development program.

## **PERFORMANCE REVIEWS**

### **The Bill**

The bill specifies that performance reviews must be made annually.

### **Assembly Amendment 1**

Assembly Amendment 1 specifies that performance reviews must be made at least annually.

## **DISCIPLINE**

### **The Bill**

The bill maintains the general requirement under current law that actions for removal, suspension, discharge, reduction in pay, or demotion may be made only for just cause, and specifies that such actions for work performance or personal conduct that is inadequate, unsuitable, or inferior may be made only after imposing progressive disciplinary actions. The bill provides that DPM must establish a general standard for progressive discipline plans, which is to be adopted and utilized by each agency. The bill also identifies certain conduct that constitutes just cause and that is not subject to progressive disciplinary actions.

### **Assembly Amendment 1**

Assembly Amendment 1 specifies that the standards for progressive discipline must allow an agency to accelerate discipline for conduct or performance that is severe in its inadequacy, unsuitability, or inferiority. The amendment also directs the Director of the Bureau of Merit Recruitment and Selection within DPM to establish standards to define serious violations of the code of ethics.

## **GRIEVANCE**

### **The Bill**

The bill gives a specific procedure, with timelines, for an employee to contest an adverse employment decision. The procedure applies to contesting the decision within the agency, review of the decision by DPM, and appealing to the Wisconsin Employment Relations Commission (WERC).

### **Assembly Amendment 1**

Assembly Amendment 1 makes technical changes to the description of the appeals period specified by the bill. The amendment also clarifies that WERC must dismiss any appeal that is not filed in a timely manner, whether the appeal is filed by the employee or by the agency.

## **LAYOFFS**

### **The Bill**

The bill revises the determination for the order of layoffs after limited term and probationary employees have been laid off, to specify that the order of layoffs must be primarily based on performance, and then based on disciplinary records, seniority, and ability, in accordance with DPM rules.

### **Assembly Amendment 1**

Assembly Amendment 1 removes the requirement of current law that limited term and probationary employees must be laid off prior to layoffs of permanent employees.

## **COMPENSATION PLAN**

### **The Bill**

The bill removes the allowance under current law for the State Compensation Plan to supersede provisions in the statutes relating to pay, benefits, and working conditions, but retains the allowance for the Compensation Plan to supersede such provisions in administrative rules.

### **Assembly Amendment 1**

Assembly Amendment 1 removes the allowance for the State Compensation Plan to supersede administrative rules.

## **CONSOLIDATION OF HUMAN RESOURCES**

### **The Bill**

The bill specifies that DOA must consult with each agency and develop a plan for assuming human resources functions for all state agencies within the executive branch, other than the Board of Regents of the University of Wisconsin System. The bill maintains the requirement under 2015 Wisconsin Act 55, the Biennial Budget Act, for DOA to consult and develop plans for assuming payroll, finance, budgeting, procurement, and information technology functions for only certain specified agencies. The bill specifies that the consultations must occur by January 1, 2017.

### **Assembly Amendment 1**

Assembly Amendment 1 revises the March 1, 2016 date for submission of plans under 2015 Wisconsin Act 55 to March 1, 2017, and revises the July 1, 2016 date for implementation to July 1, 2017. The amendment also specifies that in addition to excluding the Board of Regents of the University of Wisconsin System from the human resources plan, the Technical College System Board is also excluded from that plan.

## **REVIEW OF CURRENT POLICIES AND RECOMMENDATIONS FOR REVISIONS**

### **The Bill**

The bill requires DPM and its Bureau of Merit Recruitment and Selection to jointly review and submit findings to the Legislature by January 1, 2017, on the State Compensation Plan, on the feasibility of requiring all state agencies to use electronic personnel files and to use a uniform personnel evaluation system, and on other specified topics.

### **Assembly Amendment 1**

Assembly Amendment 1 specifies that DPM must submit any requested changes for the State Compensation Plan that result from joint review to the Joint Committee on Employment Relations no later than January 1, 2017.

### **Assembly Amendment 2**

Assembly Amendment 2 specifies that the review of the feasibility of requiring the use of electronic personnel files and the use of a uniform personnel evaluation system applies to the feasibility of using those systems for agencies within the executive branch, rather than within all state agencies, and excluding the Board of Regents of the University of Wisconsin System.

## **BILL HISTORY**

Representative Steineke offered Assembly Amendment 1 on October 19, 2015, and Assembly Amendment 2 on October 27, 2015.

On October 21, 2015, the Assembly Committee on State Affairs and Government Operations recommended adoption of Assembly Amendment 1, and recommended passage of Assembly Bill 373, as amended, on votes of Ayes, 8; Noes, 5.

On October 27, 2015, the Assembly adopted Assembly Amendments 1 and 2 on voice votes, and passed Assembly Bill 373, as amended, on a vote of Ayes, 57; Noes, 35; Paired, 2; and Absent or Not Voting, 5.

On October 29, 2015, the Senate referred the bill, as engrossed, to the Joint Committee on Finance. On November 4, 2015, the Joint Committee on Finance recommended concurrence in the engrossed bill on a vote of Ayes, 12; Noes, 4.

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