

# State of Wisconsin



1997 Assembly Bill 790

Date of enactment: **June 30, 1998**

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## 1997 WISCONSIN ACT 307

**AN ACT to repeal** 36.09 (1) (k) 2. c., 36.09 (1) (k) 2. d. and 230.14 (2); **to renumber and amend** 230.25 (3); **to amend** 36.09 (1) (k) 2. b., 230.14 (1), 230.15 (1), 230.16 (2), 230.16 (3), 230.21 (1), 230.22 (3), 230.25 (1), 230.26 (2), 230.27 (2), 230.31 (1) (intro.), 230.31 (1) (a), 230.31 (1) (b), 230.33 (1), 230.35 (1) (g) 2. and 230.40 (3); and **to create** 230.15 (2m), 230.25 (3) (b), 230.25 (5), 230.275 and 230.44 (1) (dm) of the statutes; **relating to:** various measures affecting the state civil service.

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

**SECTION 1.** 36.09 (1) (k) 2. b. of the statutes is amended to read:

36.09 (1) (k) 2. b. Establish and maintain pay ranges, each of which has a minimum and a maximum rate of pay and, ~~using the job evaluation system developed by the secretary of employment relations,~~ assign the job categories established under subd. 2. a. to those pay ranges. This subd. 2. b. does not apply to appointments under s. 36.13 (4).

**SECTION 2.** 36.09 (1) (k) 2. c. of the statutes is repealed.

**SECTION 3.** 36.09 (1) (k) 2. d. of the statutes is repealed.

**SECTION 4.** 230.14 (1) of the statutes is amended to read:

230.14 (1) Recruitment for classified positions shall be an active continuous process conducted in a manner that assures a diverse, highly qualified group of applicants; and shall be conducted, ~~except as provided under sub. (2),~~ on the broadest possible base consistent with sound personnel management practices and an approved

affirmative action plan or program. Due consideration shall be given to the provisions of s. 230.19.

**SECTION 5.** 230.14 (2) of the statutes is repealed.

**SECTION 5e.** 230.15 (1) of the statutes is amended to read:

230.15 (1) Appointments to, and promotions in, the classified service, shall be made only according to merit and fitness, which shall be ascertained so far as practicable by competitive examination. The administrator may waive competitive examination for appointments made under ~~sub. subs. (1m) and (2) and shall waive competitive examination for appointments made under sub. (2m).~~

**SECTION 5r.** 230.15 (2m) of the statutes is created to read:

230.15 (2m) If a vacancy occurs in a position in the classified service and the administrator is notified by an appointing authority that the position is to be filled by a disabled veteran under s. 230.275, the administrator shall waive all competition requirements for filling the position.

**SECTION 6.** 230.16 (2) of the statutes is amended to read:

230.16 (2) Competitive examinations shall be free and open to all applicants who ~~at the time of application~~

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

~~are residents of this state and who have fulfilled the preliminary requirements stated in the examination announcement. To assure that all residents of this state applicants have a fair opportunity to compete, examinations shall be held at such times and places as, in the judgment of the administrator, most nearly meet the convenience of applicants and needs of the service. If a critical need for employees in specific classifications or positions exists, the administrator may open competitive examinations to persons who are not residents of this state.~~

**SECTION 7.** 230.16 (3) of the statutes is amended to read:

230.16 (3) The administrator may appoint boards of examiners of at least 2 persons for the purpose of conducting oral examinations as a part of the examination procedure for certain positions. All board members shall be well-qualified and impartial and at least one shall be from outside of the civil service. All questions asked and answers made in any examination of applicants shall be recorded and made a part of the records of the applicants.

**SECTION 7e.** 230.21 (1) of the statutes is amended to read:

230.21 (1) ~~The Subject to s. 230.275, the~~ administrator may, to meet the needs of the service, establish separate recruitment, examination and certification procedures for filling positions in unskilled labor and service classes.

**SECTION 7m.** 230.22 (3) of the statutes is amended to read:

230.22 (3) ~~The Subject to s. 230.275, the~~ administrator may establish separate recruitment, evaluation and certification procedures for certain entry professional positions. Vacancies in entry professional positions may be limited to persons with a degree from an institution of higher education, as defined in s. 108.02 (18), or a degree under an associate degree program, as defined in s. 38.01 (1).

**SECTION 8.** 230.25 (1) of the statutes is amended to read:

230.25 (1) Appointing authorities shall give written notice to the administrator of any vacancy to be filled in any position in the classified service. The administrator shall certify, under this subchapter and the rules of the administrator, from the register of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, ~~the 5 any number of names at the head thereof if the register of eligibles is less than 50. If the register is more than 50, the top 10%, with any fraction rounded to the next whole number, up to a maximum of 10 names, shall be certified. In determining the number of names to certify, the administrator shall use statistical methods and personnel management principles that are designed to maximize the number of certified names that are appropriate for filling the specific position vacancy.~~ Up to 2 persons considered for appointment 3 times and not selected may be removed from

the register for each 3 appointments made. Certification under this subsection shall be made before granting any preference under s. 230.16 (7).

**SECTION 9.** 230.25 (3) of the statutes is renumbered 230.25 (3) (a) and amended to read:

230.25 (3) (a) ~~The Subject to par. (b), the~~ term of eligibility on original entrance and promotional registers is 6 months and thereafter the register expires but may be reactivated by the administrator for up to 3 years from the date of the establishment of the register. ~~The Except as provided in ss. 230.28 and 230.34, the~~ eligibility of individuals for reinstatement ~~or is 5 years and the eligibility of individuals for~~ restoration is 3 years ~~except as provided in ss. 230.28 and 230.34.~~

**SECTION 10.** 230.25 (3) (b) of the statutes is created to read:

230.25 (3) (b) The administrator may allow a register to expire after 3 months, but only after considering the impact of such an action on the policy of this state to provide for equal employment opportunity and to take affirmative action, as specified in s. 230.01 (2).

**SECTION 10d.** 230.25 (5) of the statutes is created to read:

230.25 (5) Notwithstanding sub. (2) (a), if an appointing authority elects to appoint a disabled veteran to a vacant position on a noncompetitive basis under s. 230.275 and the appointing authority has requested a certification for the position, the administrator shall provide the appointing authority the names of all disabled veterans certified for appointment to the position and who satisfy the condition specified in s. 230.275 (1) (a) and the names of all such disabled veterans who are on any other employment register that is identified by the appointing authority.

**SECTION 10h.** 230.26 (2) of the statutes is amended to read:

230.26 (2) If there are urgent reasons for filling a vacancy in any position in the classified service and the administrator is unable to certify to the appointing authority, upon requisition by the latter, a list of persons eligible for appointment from an appropriate employment register, the appointing authority may nominate a person to the administrator for noncompetitive examination. If the nominee is certified by the administrator as qualified, the nominee may be appointed provisionally to fill the vacancy until an appointment can be made from a register established after announcement of competition for the position, except that no provisional appointment may be continued for more than 45 working days after the date of certification from the register. Successive appointments may not be made under this subsection. This subsection does not apply to a person appointed to a vacant position in the classified service under s. 230.275.

**SECTION 10p.** 230.27 (2) of the statutes is amended to read:

230.27 (2) ~~The Subject to s. 230.275, the~~ administrator may provide by rule for the selection and appointment of a person to a project position.

**SECTION 10t.** 230.275 of the statutes is created to read:

**230.275 Noncompetitive appointment of certain disabled veterans.** (1) Whenever a vacancy occurs in a position in the classified service that is determined by the administrator to be a nonprofessional position or in an entry professional position under s. 230.22, the appointing authority may appoint a disabled veteran on a noncompetitive basis if all of the following occur:

(a) The disabled veteran has served in the U.S. armed forces and is included on a U.S. armed forces permanent disability list with a disability rating of at least 30% or the disabled veteran has been rated by the U.S. department of veterans affairs as having a compensable service-connected disability of at least 30%.

(b) The disabled veteran presents to the appointing authority written documentation from an appropriate department of the federal government certifying the existence and extent of the disability. This certification must have been issued by the appropriate department of the federal government within the year preceding appointment.

(c) The appointing authority determines that the disabled veteran is qualified to perform the duties and responsibilities of the position.

(d) The appointing authority notifies the administrator in writing that the position is to be filled with a disabled veteran on a noncompetitive basis.

(e) The disabled veteran does not hold a permanent appointment or have mandatory restoration rights to a permanent appointment.

(2) A disabled veteran appointed to a vacant position under this section need not be certified under this subchapter for appointment to the position.

(3) (a) 1. If an appointing authority elects to appoint a disabled veteran to a vacant position on a noncompetitive basis under sub. (1), the appointing authority shall offer to interview for the position any disabled veteran who has expressed an interest to the appointing authority in applying for the position, who satisfies the condition specified in sub. (1) (a) and who appears to have the skills and experience suitable for performing the duties and responsibilities of the position.

2. If an appointing authority elects to appoint a disabled veteran to a vacant position on a noncompetitive basis under sub. (1) and the appointing authority has requested a certification for the position, the appointing authority shall offer to interview for the position any disabled veteran who is certified for appointment to the position and who satisfies the condition specified in sub. (1) (a).

(b) Except as provided in par. (a), if an appointing authority elects to appoint a disabled veteran to a vacant

position on a noncompetitive basis under sub. (1), an appointing authority is not required to interview any other person, including any person certified for appointment to the position.

(4) Nothing in this section shall require an appointing authority to appoint a disabled veteran to a vacant position in the classified service or prohibit an appointing authority from filling a vacant position in the classified service from the list of those persons certified under this subchapter for appointment to the position.

**SECTION 11.** 230.31 (1) (intro.) of the statutes is amended to read:

230.31 (1) (intro.) Any person who has held a position and obtained permanent status in a class under the civil service law and rules and who has separated from the service without any delinquency or misconduct on his or her part but owing to reasons of economy or otherwise shall be granted the following considerations ~~for a 3-year period from the date of such separation:~~

**SECTION 12.** 230.31 (1) (a) of the statutes is amended to read:

230.31 (1) (a) ~~Such~~ For a 5-year period from the date of separation, the person shall be eligible for reinstatement in a position having a comparable or lower pay rate or range for which such person is qualified.

**SECTION 13.** 230.31 (1) (b) of the statutes is amended to read:

230.31 (1) (b) ~~In addition,~~ For a 3-year period from the date of separation, if on layoff status, the person shall be placed, in inverse order of layoff, on an appropriate mandatory restoration register for the unit used for layoff and on a restoration register for the agency from which the person was laid off. Use of such registers shall be subject to the rules of the administrator.

**SECTION 14.** 230.33 (1) of the statutes is amended to read:

230.33 (1) A person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his or her department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter, during which time the person has restoration rights to the former position or equivalent position in the department in which last employed without loss of seniority. The person shall also have reinstatement privileges for ~~3~~ 5 years following appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from the former position in the classified service.

**SECTION 15.** 230.35 (1) (g) 2. of the statutes is amended to read:

230.35 (1) (g) 2. Left the service through resignation or layoff and is reemployed or recalled within 3 ½ years.

**SECTION 16.** 230.40 (3) of the statutes is amended to read:

230.40 (3) A person who separates from the classified service to fill an elective position shall have reinstatement privileges for 3 ½ years following termination from the classified service or for one year following termination from the elective position, whichever is longer.

**SECTION 16m.** 230.44 (1) (dm) of the statutes is created to read:

230.44 (1) (dm) *Noncompetitive appointment of certain disabled veterans.* A personnel action under s. 230.275 by an appointing authority that is alleged to be illegal or an abuse of discretion. The administrator and the department may not be a party to any such appeal.

**SECTION 17. Nonstatutory provisions.**

(1) **CERTIFICATION EVALUATION.** The department of employment relations shall evaluate the certification procedures developed under section 230.25 (1) of the statutes, as affected by this act, with respect to the impact of the certification procedures on the state's affirmative action policy and the affirmative action plans of state agencies. The department shall submit the results of the evaluation to the legislature, in the manner provided under section 13.172 (2) of the statutes, and to the governor no

later than one year after the effective date of this subsection.

**SECTION 18. Initial applicability.**

(1) **CERTIFICATIONS.** The treatment of section 230.25 (1) of the statutes first applies to names certified by the administrator of the division of merit recruitment and selection in the department of employment relations on the effective date of this subsection.

(2) **UNIVERSITY OF WISCONSIN SYSTEM JOB CATEGORIES AND PAY RANGES FOR ACADEMIC STAFF.** The treatment of section 36.09 (1) (k) 2. b., c. and d. of the statutes first applies to job categories and pay ranges established on the effective date of this subsection.

(3) **REINSTATEMENT.** The treatment of sections 230.25 (3) (with respect to the eligibility of individuals for reinstatement), 230.31 (1) (intro.), (a) and (b), 230.33 (1), 230.35 (1) (g) 2. and 230.40 (3) of the statutes first applies to any person who is initially eligible for reinstatement on the effective date of this subsection.

**SECTION 18m. Effective date.**

(1) The treatment of sections 230.15 (1) and (2m), 230.21 (1), 230.22 (3), 230.25 (5), 230.26 (2), 230.27 (2), 230.275 and 230.44 (1) (dm) of the statutes takes effect on the first day of the 2nd month beginning after publication.