



## 2005 ASSEMBLY BILL 977

February 2, 2006 - Introduced by Representatives BENEDICT, SINICKI, MUSSER, TURNER and MCCORMICK. Referred to Committee on Veterans Affairs.

1     **AN ACT to amend** 59.26 (8) (a), 59.52 (8) (a), 60.37 (1), 62.13 (4) (c), 62.50 (2), 63.05  
2           (1) (intro.), 63.25 (1) (intro.), 111.31 (1), 111.31 (2), 111.31 (3), 111.321, 119.04  
3           (1), 230.25 (1m) and 230.25 (1n) (a) (intro.); and **to create** 66.0509 (6), 111.32  
4           (12g), 111.32 (15), 120.12 (27) and 230.25 (1h) of the statutes; **relating to:**  
5           employment discrimination based on veteran status and employment of  
6           veterans in the state civil service, local government employment, and school  
7           districts.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, no employer, labor organization, licensing agency, employment agency, or other person may refuse to hire, employ, admit, or license an individual, bar or terminate an individual from employment, membership, or licensure, or discriminate against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment on the basis of membership in the national guard, state defense force, or any reserve component of the military forces of the United States or this state.

This bill prohibits an employer, labor organization, licensing agency, employment agency, or other person from refusing to hire, employ, admit, or license an individual, barring or terminating an individual from employment, membership, or licensure, or discriminating against an individual in promotion, in compensation,

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or in the terms, conditions, or privileges of employment on the basis of veteran status, which is defined in the bill for purposes of that prohibition as the status of having served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the national guard or state defense force, or in a reserve component of the military forces of the United States or of this state.

Under current law governing classified positions in the state civil service, including classified positions at the University of Wisconsin, whenever such a position is to be filled, the administrator of the Division of Merit Recruitment and Selection in the Office of Employment Relations must certify the names of individuals who are eligible to fill the position. In determining the number of names to certify, the administrator must use statistical methods and personnel management principles that are designed to maximize the number of certified names that are appropriate for filling the position. In addition, the administrator must certify the names of those individuals whose examination scores and veterans preference points equal or exceed the lowest score of any person certified on the basis of an examination only. (Currently, veterans or certain veterans' spouses may receive preference points to add to their examination scores for classified civil service positions.) The only limitation on certifying the names of individuals with veterans preference points is that the number certified may not exceed the number certified on the basis of an examination only.

This bill eliminates the restriction on the number of names of individuals who may be certified on the basis of the additional veterans preference points and, instead, requires the administrator to certify the name of any veteran whom the administrator determines is qualified to fill the position.

The bill also requires a school board and a political subdivision (a city, village, town, or county), or a subunit, instrumentality, or agency of a political subdivision (subunit), to ensure that every veteran who seeks employment with the school district, political subdivision, or subunit and who is determined by the school board, political subdivision, or subunit or its designee to be qualified for the position sought, is granted an interview for the position. This provision applies to political subdivisions without regard to whether they currently have a civil service system that provides preference points to veterans.

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

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

1           **SECTION 1.** 59.26 (8) (a) of the statutes, as affected by 2005 Wisconsin Act 40,  
2 is amended to read:

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1           59.26 (8) (a) In any county with a population of less than 500,000, the board,  
2 by ordinance, may fix the number of deputy sheriffs to be appointed in that county  
3 at not less than that number required by sub. (1) (a) and (b) and may set the salary  
4 of those deputies. ~~The~~ Subject to sub. (10) and s. 66.0509 (6), the board may provide  
5 by ordinance that deputy sheriff positions be filled by appointment by the sheriff  
6 from a list of all persons with the 3 highest scores for each position based on a  
7 competitive examination. Such competitive examinations may be by a county civil  
8 service commission or by the division of merit recruitment and selection in the office  
9 of state human resources management at the option of the board and it shall so  
10 provide by ordinance. The division of merit recruitment and selection in the office  
11 of state human resources management shall, upon request of the board, conduct such  
12 examination according to the methods used in examinations for the state civil service  
13 and shall certify an eligible list of the names of all persons with the 3 highest scores  
14 on that examination for each position to the sheriff of that county who shall, subject  
15 to sub. (10), make an appointment from that list to fill the position within 10 days  
16 after he or she receives the eligible list. The county for which such examination is  
17 conducted shall pay the cost of that examination. If a civil service commission is  
18 decided upon for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply  
19 so far as consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except  
20 the provision governing minimum compensation of the commissioners. The  
21 ordinance or an amending ordinance may provide for employee grievance procedures  
22 and disciplinary actions, for hours of work, for tours of duty according to seniority  
23 and for other administrative regulations. Any board provision consistent with this  
24 paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy  
25 sheriff position by promotion, the sheriff shall, subject to sub. (10), make the

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1 appointment to the position from a list of 3 deputy sheriffs who receive the highest  
2 scores in a competitive examination. Such competitive examinations may be by a  
3 county civil service commission or by the division of merit recruitment and selection  
4 in the office of state human resources management at the option of the board and it  
5 shall so provide by ordinance.

6 **SECTION 2.** 59.52 (8) (a) of the statutes is amended to read:

7 59.52 (8) (a) ~~The Subject to s. 66.0509 (6),~~ the board may establish a civil service  
8 system of selection, tenure and status, and the system may be made applicable to all  
9 county personnel, except the members of the board, constitutional officers and  
10 members of boards and commissions. The system may also include uniform  
11 provisions in respect to classification of positions and salary ranges, payroll  
12 certification, attendance, vacations, sick leave, competitive examinations, hours of  
13 work, tours of duty or assignments according to earned seniority, employee grievance  
14 procedure, disciplinary actions, layoffs and separations for just cause, as described  
15 in par. (b), subject to approval of a civil service commission or the board. The board  
16 may request the assistance of the department of administration and pay for such  
17 services, under s. 16.58.

18 **SECTION 3.** 60.37 (1) of the statutes is amended to read:

19 60.37 (1) GENERAL. The town board may employ on a temporary or permanent  
20 basis persons necessary to carry out the functions of town government including,  
21 subject to sub. (4), any elected officer of the town. ~~The Subject to s. 66.0509 (6), the~~  
22 board may establish the qualifications and terms of employment, which may include  
23 the residency of the employee. The board may delegate the authority to hire town  
24 employees to any town official or employee.

25 **SECTION 4.** 62.13 (4) (c) of the statutes is amended to read:

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1           62.13 (4) (c) For the choosing of such list the board shall adopt, and may repeal  
2 or modify, rules calculated to secure the best service in the departments. These rules  
3 are subject to s. 66.0509 (6), and shall provide for examination of physical and  
4 educational qualifications and experience, and may provide such competitive  
5 examinations as the board shall determine, and for the classification of positions  
6 with special examination for each class. The board shall print and distribute the  
7 rules and all changes in them, at city expense.

8           **SECTION 5.** 62.50 (2) of the statutes is amended to read:

9           62.50 (2) CONTROL OF APPOINTMENTS. ~~No~~ Subject to s. 66.0509 (6), no person may  
10 be appointed to any position either on the police force or in the fire department of the  
11 city, except with the approval of the board.

12           **SECTION 6.** 63.05 (1) (intro.) of the statutes is amended to read:

13           63.05 (1) (intro.) If an appointing authority in any county with a commission  
14 under ss. 63.01 to 63.16 learns that a vacancy has occurred or is about to occur in any  
15 position in the classified service in his or her department, the appointing authority  
16 shall notify the director of personnel of the vacancy. The appointing authority shall  
17 include with the notice of the vacancy a recommendation as to whether the vacancy  
18 should be filled by promotion, reduction or reinstatement of a named individual  
19 employee from any county department or from an eligible list established under s.  
20 63.08. The director of personnel, with the approval of the commission and subject  
21 to s. 66.0509 (6), may:

22           **SECTION 7.** 63.25 (1) (intro.) of the statutes is amended to read:

23           63.25 (1) (intro.) The rules mentioned in ss. 63.18 to 63.53 are subject to s.  
24 66.0509 (6) and shall provide among other things for the following:

25           **SECTION 8.** 66.0509 (6) of the statutes is created to read:

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1           66.0509 (6) (a) In this subsection:

2           1. "Appointing authority" means the individual or entity that selects an  
3 individual as an employee of a local governmental unit.

4           2. "Local governmental unit" means a city, village, town, or county, or a subunit,  
5 instrumentality, or agency of any of the the foregoing.

6           (b) An appointing authority shall ensure that every veteran, as defined in s.  
7 230.03 (14), who seeks employment with a local governmental unit and who is  
8 determined by the local governmental unit, or its designee, to be qualified for the  
9 position sought, is granted an interview for the position.

10           **SECTION 9.** 111.31 (1) of the statutes is amended to read:

11           111.31 (1) The legislature finds that the practice of unfair discrimination in  
12 employment against properly qualified individuals by reason of their age, race,  
13 creed, color, disability, marital status, sex, national origin, ancestry, sexual  
14 orientation, arrest record, conviction record, ~~membership in the national guard,~~  
15 ~~state defense force or any other reserve component of the military forces of the United~~  
16 ~~States or this state~~ military status, veteran status, or use or nonuse of lawful  
17 products off the employer's premises during nonworking hours substantially and  
18 adversely affects the general welfare of the state. Employers, labor organizations,  
19 employment agencies, and licensing agencies that deny employment opportunities  
20 and discriminate in employment against properly qualified individuals solely  
21 because of their age, race, creed, color, disability, marital status, sex, national origin,  
22 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~  
23 ~~national guard, state defense force or any other reserve component of the military~~  
24 ~~forces of the United States or this state~~ military status, veteran status, or use or  
25 nonuse of lawful products off the employer's premises during nonworking hours

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1 deprive those individuals of the earnings that are necessary to maintain a just and  
2 decent standard of living.

3 **SECTION 10.** 111.31 (2) of the statutes is amended to read:

4 111.31 (2) It is the intent of the legislature to protect by law the rights of all  
5 individuals to obtain gainful employment and to enjoy privileges free from  
6 employment discrimination because of age, race, creed, color, disability, marital  
7 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction  
8 record, ~~membership in the national guard, state defense force or any other reserve~~  
9 ~~component of the military forces of the United States or this state~~ military status,  
10 veteran status, or use or nonuse of lawful products off the employer's premises  
11 during nonworking hours, and to encourage the full, nondiscriminatory utilization  
12 of the productive resources of the state to the benefit of the state, the family, and all  
13 the people of the state. It is the intent of the legislature in promulgating this  
14 subchapter to encourage employers to evaluate an employee or applicant for  
15 employment based upon the employee's or applicant's individual qualifications  
16 rather than upon a particular class to which the individual may belong.

17 **SECTION 11.** 111.31 (3) of the statutes is amended to read:

18 111.31 (3) In the interpretation and application of this subchapter, and  
19 otherwise, it is declared to be the public policy of the state to encourage and foster  
20 to the fullest extent practicable the employment of all properly qualified individuals  
21 regardless of age, race, creed, color, disability, marital status, sex, national origin,  
22 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~  
23 ~~national guard, state defense force or any other reserve component of the military~~  
24 ~~forces of the United States or this state~~ military status, veteran status, or use or  
25 nonuse of lawful products off the employer's premises during nonworking hours.

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1 Nothing in this subsection requires an affirmative action program to correct an  
2 imbalance in the work force. This subchapter shall be liberally construed for the  
3 accomplishment of this purpose.

4 **SECTION 12.** 111.32 (12g) of the statutes is created to read:

5 111.32 (12g) "Military status" means membership in the national guard, state  
6 defense force, or any other reserve component of the military forces of the United  
7 States or this state.

8 **SECTION 13.** 111.32 (15) of the statutes is created to read:

9 111.32 (15) "Veteran status" means the status of having served on active duty  
10 under honorable conditions in the U.S. armed forces, in forces incorporated as part  
11 of the U.S. armed forces, in the national guard or state defense force, or in a reserve  
12 component of the military forces of the United States or of this state.

13 **SECTION 14.** 111.321 of the statutes is amended to read:

14 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36,  
15 no employer, labor organization, employment agency, licensing agency, or other  
16 person may engage in any act of employment discrimination as specified in s. 111.322  
17 against any individual on the basis of age, race, creed, color, disability, marital  
18 status, sex, national origin, ancestry, arrest record, conviction record, membership  
19 ~~in the national guard, state defense force or any reserve component of the military~~  
20 ~~forces of the United States or this state~~ military status, veteran status, or use or  
21 nonuse of lawful products off the employer's premises during nonworking hours.

22 **SECTION 15.** 119.04 (1) of the statutes is amended to read:

23 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
24 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
25 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to



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1 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,  
2 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.291,  
3 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to ~~(26)~~ (27), 120.125,  
4 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and  
5 120.25 are applicable to a 1st class city school district and board.

6 **SECTION 16.** 120.12 (27) of the statutes is created to read:

7 120.12 **(27)** EMPLOYMENT OF VETERANS. Ensure that every veteran, as defined  
8 in s. 230.03 (14), who seeks employment with the school district and who is  
9 determined by the school board or its designee to be qualified for the position sought  
10 is granted an interview for the position.

11 **SECTION 17.** 230.25 (1h) of the statutes is created to read:

12 230.25 **(1h)** After certifying names under subs. (1), (1g), and (1m), the  
13 administrator shall certify the name of every veteran whom the administrator  
14 determines is qualified to fill the position.

15 **SECTION 18.** 230.25 (1m) of the statutes is amended to read:

16 230.25 **(1m)** After certifying names under sub. (1), additional names shall be  
17 certified in rank order of those who with the combination of veterans preference  
18 points awarded under s. 230.16 (7) and examination score earn a total score equal  
19 to or higher than the lowest score of those certified on the basis of examination only.  
20 ~~The number of veterans or spouses of veterans added to the list may not exceed the~~  
21 ~~number of names certified under sub. (1).~~

22 **SECTION 19.** 230.25 (1n) (a) (intro.) of the statutes is amended to read:

23 230.25 **(1n)** (a) (intro.) After certifying names under subs. (1), (1g), (1h), and  
24 (1m), the administrator may engage in expanded certification by doing one or more  
25 of the following:

