

1981 Senate Bill 356

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CHAPTER 140 , Laws of 1981

AN ACT to renumber 230.31 (1) (b); to renumber and amend 230.31 (1) (a); and to amend 20.917 (1) (intro.) and (3) (b), 230.15 (1), 230.16 (9), 230.27 (2) (intro.), 230.32 (4), 230.34 (2) (b), 230.35 (1) (a) 4. (intro.) and (3) (d), 230.43 (4) and 230.44 (1) (c) of the statutes, relating to state employees (suggested as remedial legislation by the department of employment relations).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations, and introduced by the law revision committee under s. 13.83 (1) (c) 4 of the statutes. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes remedial changes in the statutes, and that these changes are desirable to maintain the accuracy and usefulness of the statutes.

SECTION 1. 20.917 (1) (intro.) and (3) (b) of the statutes are amended to read:

20.917 (1) (intro.) Whenever a person currently employed in a position in the civil service, other than on a provisional, ~~part-time~~ limited term or emergency basis, is ordered to relocate or is promoted to a different position in the civil service and the new place of employment requires in the judgment of the new appointing authority at the new place of employment, or in the judgment of the appointing authority in an intra-agency relocation or promotion, a change in location of residence, ~~he~~ the appointing authority shall authorize such employee to be reimbursed for the actual and necessary expense for the use of one owned automobile at the rate specified in s. 20.916 (4) or its equivalent if public transportation is used in transporting ~~himself~~ the employe and the immediate members of ~~his~~ the employe's family to ~~his~~ the new place of residence and for the preparation and transportation of ~~his~~ the employe's household effects to ~~his~~ the new place of residence. The amount of reimbursement for moving household effects intrastate shall not exceed the maximum amount authorized by the rates prescribed by the transportation commission for the weight of goods moved and the distance involved.

(3) (b) This subsection applies to employes in all positions included within in the civil service, including those employes in positions included in collective bargaining units under subch. V of ch. 111, whether or not the employes are covered by a collective bargaining agreement.

NOTE: Section 20.917 (1) (intro.) of the statutes provides that state employes may receive reimbursement for certain job-related moving expenses, with the exception that employes on a “provisional, part-time or emergency basis” are not eligible for reimbursement. Prior to the adoption of chapter 196, laws of 1977, “part-time” employment was included in the definition of “limited term” employment. With the adoption of chapter 196, laws of 1977, the definition of “part-time” employment was changed, so that it is now a type of permanent employment. This SECTION substitutes “limited term” for “part-time”, to restore the original intent of the exception in s. 20.917 (1) (intro.) of the statutes.

Section 20.917 (3) (a) of the statutes provides that “an appointing authority may recommend payment of a temporary living quarters allowance for not to exceed 30 days to a person reporting to his or her initial employment in the civil service, other than on a provisional, emergency or limited term basis, if the person must establish a temporary residence at his or her headquarters city....”

This SECTION amends s. 20.917 (3) (b) of the statutes to reflect the original intent of its enactment by chapter 418, laws of 1977, that the temporary living quarters provision is applicable to all employes (except those on a provisional, emergency or limited term basis) whether they are classified or unclassified and whether or not they are represented.

SECTION 2. 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. When the state becomes responsible for a function previously administered by another governmental agency, a quasi-public, or a private enterprise, or when positions in the unclassified service, excluding employes of the legislature, are determined to be more appropriately included in the classified service, the ~~director~~ administrator shall determine appropriate eligibility, pay, employe benefits and status identified in ss. 230.28 and 230.35.

NOTE: Several references to the “director” in ch. 230 of the statutes refer to the former director of the bureau of personnel. These references should have been changed to “administrator” when the department of employment relations was established by chapter 196, laws of 1977, since the references pertain to functions assigned to the administrator under subch. II or ch. 230 of the statutes.

SECTION 3. 230.16 (9) of the statutes is amended to read:

230.16 (9) The officials in control of municipal and county buildings, upon requisition by the ~~director~~ administrator, shall furnish adequate rooms and building services for the administration of examinations.

NOTE: See the NOTE to SECTION 2.

SECTION 4. 230.27 (2) (intro.) of the statutes is amended to read:

230.27 (2) (intro.) The administrator may provide by rule for the selection and appointment of a person to a project position. An employe in a project position on a project appointment basis, while in the position, shall earn and receive all rights and privileges specifically authorized by statute for nonrepresented classified employes, except tenure, transfer, restoration, reinstatement, promotion eligibility and layoff benefits. A project employe’s vacation and holidays under s. 230.35 (4) (d) and sick leave shall be on a prorated basis if the employe works less than full-time. Seniority, continuous service, benefits and rights earned while serving a project appointment shall be transferred to or

from other project, permanent, seasonal, or sessional appointments in the following manner:

NOTE: This bill clarifies the distinction between employe "reinstatement" and "restoration" in several provisions of ch. 230 of the statutes. Restoration is available as a matter of right, while reinstatement is discretionary. This bill makes these provisions consistent with the use of these terms elsewhere in ch. 230 of the statutes. This SECTION pertains to the status of project employes.

SECTION 5. 230.31 (1) (a) of the statutes is renumbered 230.31 (1) (b) and amended to read:

230.31 (1) (b) If In addition, 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 ~~service-wide~~ 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.

NOTE: This bill clarifies the distinction between employe "reinstatement" and "restoration" in several provisions of ch. 230 of the statutes. Restoration is available as a matter of right, while reinstatement is discretionary. This bill makes these provisions consistent with the use of these terms elsewhere in ch. 230 of the statutes. This SECTION pertains to persons who have been laid off.

SECTION 6. 230.31 (1) (b) of the statutes is renumbered 230.31 (1) (a).

NOTE: See the NOTE to SECTION 5.

SECTION 7. 230.32 (4) of the statutes is amended to read:

230.32 (4) Any person appointed to fill the position of an employe on such military or civilian leave shall be designated as a substitute or replacement employe and upon the return and reemployment of the original employe the substitute employe shall be transferred to a similar position with the same employing agency if one is available, or if not, he or she shall be eligible for reinstatement or have the right of restoration in accordance with this subchapter and the rules of the administrator. The status of any person who is appointed to fill the place of an employe on military or civilian leave under this section shall be governed by the rules of the administrator pursuant thereto.

NOTE: This bill clarifies the distinction between employe "reinstatement" and "restoration" in several provisions of ch. 230 of the statutes. Restoration is available as a matter of right, while reinstatement is discretionary. This bill makes these provisions consistent with the use of these terms elsewhere in ch. 230 of the statutes. This SECTION pertains to persons who are hired to replace persons who leave to enter military service.

SECTION 8. 230.34 (2) (b) of the statutes is amended to read:

230.34 (2) (b) The administrator shall promulgate rules governing layoffs and appeals therefrom and alternative procedures in lieu of layoff to include voluntary and involuntary demotion and the exercise of a displacing right to a comparable or lower class, as well as the subsequent employe right of restoration or eligibility for reinstatement.

NOTE: This bill clarifies the distinction between employe "reinstatement" and "restoration" in several provisions of ch. 230 of the statutes. Restoration is available as a matter of right, while reinstatement is discretionary. This bill makes these provisions consistent with the use of these terms elsewhere in ch. 230 of the statutes. This SECTION pertains to rules concerning persons who have been laid off.

SECTION 9. 230.35 (1) (a) 4. (intro.) and (3) (d) of the statutes are amended to read:

230.35 (1) (a) 4. (intro.) Two hundred hours each year for a full year of service after 25 years of service but the employe, subject to the rules of the ~~director~~ administrator, may elect to receive not to exceed 40 hours of such 200 hours earned annual leave among one or more of these options:

(3) (d) Employes of the state are entitled to reasonable paid leaves of absence to compete in promotional examinations and interviews. The ~~director~~ administrator shall promulgate rules governing the lengths of time allowable for such leaves, their frequency and the provisions for their use.

NOTE: See the NOTE to SECTION 2.

SECTION 10. 230.43 (4) of the statutes is amended to read:

230.43 (4) RIGHTS OF EMPLOYEE. If an employe has been removed, demoted or reclassified, from or in any position or employment in contravention or violation of this subchapter, and has been ~~reinstated~~ restored to such position or employment by order of the commission or any court upon review, the employe shall be entitled to compensation therefor from the date of such unlawful removal, demotion or reclassification at the rate to which he or she would have been entitled by law but for such unlawful removal, demotion or reclassification. Interim earnings or amounts earnable with reasonable diligence by the employe shall operate to reduce back pay otherwise allowable. Amounts received by the employe as unemployment benefits or welfare payments shall not reduce the back pay otherwise allowable, but shall be withheld from the employe and immediately paid to the unemployment reserve fund or, in the case of a welfare payment, to the welfare agency making such payment. The employe shall be entitled to an order of mandamus to enforce the payment or other provisions of such order.

NOTE: This bill clarifies the distinction between employe "reinstatement" and "restoration" in several provisions of ch. 230 of the statutes. Restoration is available as a matter of right, while reinstatement is discretionary. This bill makes these provisions consistent with the use of these terms elsewhere in ch. 230 of the statutes. This SECTION pertains to the remedy available if an employe is returned to employment by order of the personnel commission or a court.

SECTION 11. 230.44 (1) (c) of the statutes is amended to read:

230.44 (1) (c) *Demotion, layoff, suspension or discharge*. If an employe has permanent status in class, the employe may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission, if the appeal alleges that the decision was not based on just cause.

NOTE: Section 230.34 of the statutes provides that a state employe with permanent status in class may be reduced in base pay only for just cause.

Section 230.44 of the statutes provides that a state employe may appeal a reduction in pay if the appeal alleges that the decision was not based on just cause. This SECTION clarifies that only a reduction in "base" pay is appealable and that other actions by the employer which result in reduction of compensation are not appealable.
