

1991 Senate Bill 255

Date of enactment: **December 6, 1991**
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1991 WISCONSIN ACT 101

AN ACT to renumber 230.04 (10); to renumber and amend 230.25 (2); to amend 62.13 (4) (d), 63.08 (1) (f), 63.37, 66.19 (1), 230.04 (9) (e), 230.25 (1m) and 230.25 (1n) (a) (intro.); to repeal and recreate 230.16 (7); and to create 63.39 (2m), 230.03 (9m), 230.03 (14), 230.04 (9) (em), 230.04 (9m), 230.04 (10) (b) and (c), 230.16 (7m), 230.21 (1m), 230.25 (1g), 230.25 (1p), 230.25 (2) (a) and 230.27 (2k) of the statutes, relating to: veterans preference in state and local employment and affirmative action in state employment.

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

SECTION 1. 62.13 (4) (d) of the statutes is amended to read:

62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and under 55 years of age, with proper limitations as to residence, health and, subject to ss. 111.321, 111.322 and 111.335, arrest and conviction record. The examination, including minimum training and experience requirements, shall be job-related in compliance with appropriate validation standards and shall be subject to the approval of the board and may include tests of manual skill and physical strength. All relevant experience, whether paid or unpaid, shall satisfy experience requirements. The board shall control examinations and may designate and change examiners, who may or may not be otherwise in the official service of the city, and whose compensation shall be fixed by the board and paid by the city. Veterans and their spouses shall be given preference points in accordance with s. 230.16 (7).

SECTION 2. 63.08 (1) (f) of the statutes is amended to read:

63.08 (1) (f) 1. The commission may not impose any restriction as to age on any veteran who is applying or eligible for a position under this section. The commission shall give preference points to veterans and their spouses under s. 230.16 (7), except as provided under subd. 2.

2. Notwithstanding s. 230.16 (7), persons shall be certified from the eligible list under s. 63.05 (1) (b) without adding any ~~veterans~~ preference points to any person's grade.

3. After the certification under subd. 2, any veteran or veteran's spouse whose grade, plus the points to which the veteran or spouse is entitled under s. 230.16 (7), is equal to or higher than the lowest grade on the list made under subd. 2 shall be added to the certification list under s. 63.05 (1) (b). The number of ~~veterans~~ persons added to a certification list under this subdivision may not exceed the number of persons initially certified under subd. 2.

SECTION 3. 63.37 of the statutes is amended to read:

63.37 Board to keep a register of eligibles. From the returns or reports of the examiners, or from the examinations made by the board, the board shall prepare and keep a register for each grade or class of position in the service of such city, of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by the rules of such board, and who are otherwise eligible, and such persons shall take rank upon the register as candidates in the order of their relative excellence as determined by examination without reference to priority of time of examination. The board shall impose no restrictions as to age in case of veterans, and veterans and their spouses shall be given preference points in accordance with s. 230.16 (7).

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SECTION 3m. 63.39 (2m) of the statutes is created to read:

63.39 (2m) Notwithstanding s. 230.16 (7), the board shall certify persons from the list of eligibles without adding preference points to their grades. After the certification under sub. (1) or (2), the board shall add to the certification list any veteran or veteran's spouse whose grade, plus the points to which the veteran or spouse is entitled under s. 230.16 (7), is equal to or higher than the lowest grade on the list of eligibles. The number of persons added to a certification list under this subsection may not exceed the number of persons initially certified under sub. (1) or (2).

SECTION 4. 66.19 (1) of the statutes is amended to read:

66.19 (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or 66.01 to establish a civil service system of selection, tenure and status, and the system may be made applicable to all municipal personnel except the chief executive and members of the governing body, members of boards and commissions including election officials, employees subject to s. 62.13, members of the judiciary and supervisors. For veterans there shall be no restrictions as to age, and veterans and their spouses shall be given preference points in accordance with s. 230.16 (7). The system may also include uniform provisions in respect to attendance, leave regulations, compensation and payrolls for all personnel included thereunder. The governing body of any city or village adopting a civil service system under this section may exempt therefrom the librarians and assistants subject to s. 43.09 (1).

SECTION 5. 230.03 (9m) of the statutes is created to read:

230.03 (9m) "Disabled wartime veteran" means a veteran who has a disability that is directly traceable to war service.

SECTION 6. 230.03 (14) of the statutes is created to read:

230.03 (14) Except as provided in s. 230.16 (7m), "veteran" means any person who served on active duty under honorable conditions in the U.S. armed forces who was entitled to receive either the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, or the Vietnam service medal established by executive order 11231 on July 8, 1965, or who served in Grenada, Lebanon, Panama or a Middle East crisis under s. 45.34 or any person who served for at least one day during a war period, as defined in s. 45.35 (5) (a) to (g) or under section 1 of executive order 10957 dated August 10, 1961.

SECTION 7. 230.04 (9) (e) of the statutes is amended to read:

230.04 (9) (e) Annually, prepare and submit to the governor and the legislature a summary of existing agency affirmative action program accomplishments,

including the information obtained from agencies under sub. (10) (b). future goals and recommended actions.

SECTION 8. 230.04 (9) (em) of the statutes is created to read:

230.04 (9) (em) Annually, prepare and submit to the governor and the legislature a summary of the progress being made to provide employment opportunities in civil service for veterans under this chapter, including the information obtained from agencies under sub. (10) (c).

SECTION 8m. 230.04 (9m) of the statutes is created to read:

230.04 (9m) The secretary shall conduct periodic reviews and evaluations of the written records of hiring decisions made by appointing authorities under ss. 230.21 (1m), 230.25 (1p) and 230.27 (2k).

SECTION 9. 230.04 (10) of the statutes is renumbered 230.04 (10) (a).

SECTION 10. 230.04 (10) (b) and (c) of the statutes are created to read:

230.04 (10) (b) The secretary shall request from each agency and each agency shall furnish to the secretary relevant racial, ethnic, gender and handicap information on every new employe hired by the agency including limited term, project, seasonal and sessional employes. The secretary shall maintain the data to permit a periodic review of the agency's affirmative action plan accomplishments.

(c) The secretary shall request from each agency and each agency shall furnish to the secretary relevant information regarding the prior military service, if any, of every new employe hired by the agency including limited term, project, seasonal and sessional employes. The secretary shall maintain the data to permit a periodic review of the progress being made to provide employment opportunities in civil service for veterans and disabled wartime veterans.

SECTION 11. 230.16 (7) of the statutes, as affected by 1991 Wisconsin Act 2, is repealed and recreated to read:

230.16 (7) (a) A preference shall be given to those veterans and to those spouses of veterans specified in subs. 1 to 6 who gain eligibility on any competitive employment register and who do not currently hold a permanent appointment or have mandatory restoration rights to a permanent appointment to any position. A preference means the following:

1. For a veteran, that 10 points shall be added to his or her grade.
2. For a disabled wartime veteran, that 15 points shall be added to his or her grade.
3. For a disabled wartime veteran whose disability is at least 30%, that 20 points shall be added to his or her grade.
4. For the spouse of a disabled wartime veteran whose disability is at least 70%, that 10 points shall be added to the spouse's grade.

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5. For the unremarried spouse of a veteran who was killed in action, that 10 points shall be added to the spouse's grade.

6. For the unremarried spouse of a veteran who died of a service-connected disability, that 10 points shall be added to the spouse's grade.

(b) An applicant who is certified for a position after receiving a preference under par. (a) 4., 5. or 6. and who is appointed to that position may not obtain a preference under par. (a) 4., 5. or 6. for any other civil service position for which the applicant subsequently applies.

SECTION 12. 230.16 (7m) of the statutes is created to read:

230.16 (7m) (a) In this subsection, "veteran" means a person who fulfills at least one of the following requirements:

1. Served on active duty in the U.S. armed forces for at least 180 days, not including training.

2. Was discharged from the U.S. armed forces because of a disability incurred during active duty or because of a disability that is later adjudicated by the U.S. department of veterans affairs to have been incurred during active duty.

3. Was honorably discharged from the U.S. armed forces.

4. Is eligible to receive federal veterans benefits.

(b) The department shall accept an application after its due date from a veteran if all of the following apply:

1. The register established on the basis of timely applications was established not more than 60 days before the applicant's separation from the U.S. armed forces.

2. The register has not expired.

3. The application was filed not more than 45 days after the applicant's separation from the U.S. armed forces.

4. The examination for the position is a written, non-essay examination that is scored by a machine.

(c) Within 30 days after acceptance of an application under par. (b), the department shall give the applicant an examination.

SECTION 13g. 230.21 (1m) of the statutes is created to read:

230.21 (1m) (a) If the administrator uses the method of random certification to determine which applicants for an unskilled labor or service position will receive further consideration for the position, the administrator shall do all of the following:

1. Engage in expanded certification by certifying additional names as provided in s. 230.25 (1n).

2. Additionally certify up to 3 names of persons who are veterans.

(b) If the administrator uses the method of random certification to determine which applicants for an unskilled labor or service position will receive further consideration for the position and the appointing author-

ity does not select a veteran or a person the hiring of whom would serve affirmative action purposes, the appointing authority shall make and retain a written record of the appointing authority's reasons for selecting the person who was appointed. The appointing authority shall make the written records available to the department and annually submit a report to the department summarizing the reasons contained in the written records.

SECTION 13m. 230.25 (1g) of the statutes is created to read:

230.25 (1g) For every position to be filled by promotion from a promotional register, the administrator shall, after certifying names under sub. (1), additionally certify the name of the highest ranked disabled wartime veteran whose disability is at least 70%.

SECTION 14. 230.25 (1m) of the statutes is amended to read:

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

SECTION 14m. 230.25 (1n) (a) (intro.) of the statutes is amended to read:

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

SECTION 16. 230.25 (1p) of the statutes is created to read:

230.25 (1p) If an appointing authority appoints a person certified under this section and the person is not a veteran, the spouse of a veteran or a person the hiring of whom would serve affirmative action purposes, the appointing authority shall make and retain a written record of the appointing authority's reasons for selecting the person who was appointed. The appointing authority shall make the written records available to the department and annually submit a report to the department summarizing the reasons contained in the written records. The department shall annually prepare a report summarizing, for each agency, the reasons contained in the records prepared by appointing authorities under this subsection.

SECTION 17. 230.25 (2) of the statutes is renumbered 230.25 (2) (b) and amended to read:

230.25 (2) (b) Unless otherwise provided in this chapter or the rules of the administrator, appointments shall be made by appointing authorities to all positions in the classified service from among those certified to them in accordance with ~~sub. (1)~~ this section. Appointments shall be made within 60 days after the date of certification

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unless an exception is made by the administrator. If an appointing authority does not make an appointment within 60 days after certification, he or she shall immediately report in writing to the administrator the reasons therefor. If the administrator determines that the failure to make an appointment is not justified under the merit system, the administrator shall issue an order directing that an appointment be made.

SECTION 18. 230.25 (2) (a) of the statutes is created to read:

230.25 (2) (a) When certifying names to appointing authorities under this section, the administrator shall specify whether the certification includes qualifying veterans or persons the hiring of whom would serve affirmative action purposes, without divulging the names of those individuals. The administrator shall not disclose any applicant's test score, with or without the addition of veterans preference points under s. 230.16 (7), to the appointing authority.

SECTION 20. 230.27 (2k) of the statutes is created to read:

230.27 (2k) If an appointing authority selects, for a project position, a person who is not a veteran or is not a person the hiring of whom would serve affirmative action purposes, the appointing authority shall make and retain a written record of the appointing authority's reasons for selecting the person who was appointed. The appointing authority shall make the written records available to the department and annually submit a report to the department summarizing the reasons contained in the written

records. The department shall annually prepare a report summarizing, for each agency, the information submitted by appointing authorities under this subsection.

SECTION 20m. Nonstatutory provisions. (1) VETERANS EMPLOYMENT SUMMARY. The secretary of employment relations shall submit the first report required to be submitted under section 230.04 (9) (em) of the statutes, as created by this act, on or before the first day of the 10th month beginning after the effective date of this subsection.

SECTION 21m. Initial applicability. (1) The treatment of sections 62.13 (4) (d), 63.08 (1) (f), 63.37, 66.19 (1) and 230.16 (7) and (7m) of the statutes first applies to applications filed on the effective date of this subsection.

(2) The treatment of sections 230.21 (1m) (a) and 230.25 (1m) of the statutes, the renumbering and amendment of section 230.25 (2) of the statutes and the creation of section 230.25 (2) (a) of the statutes first apply to certifications made on the effective date of this subsection.

(3) The treatment of sections 63.39 (2m) and 230.25 (1g) and (1n) (a) (intro.) of the statutes first applies to certifications made on the effective date of this subsection.

(4) The treatment of sections 230.21 (1m) (b), 230.25 (1p) and 230.27 (2k) of the statutes first applies to appointments made on the effective date of this subsection.

SECTION 22m. Effective date. This act takes effect on the first day of the 5th month beginning after publication.