



1997 ASSEMBLY BILL 790

February 12, 1998 - Introduced by Representatives VRAKAS, HANSON, JENSEN, VANDER LOOP, KLUSMAN, TURNER, DUFF, R. YOUNG, NASS, DOBYNS, ALBERS, OTT, OLSEN, POWERS, HAHN and JOHNSRUD, cosponsored by Senators FARROW, DARLING, DRZEWIECKI and FITZGERALD. Referred to Committee on Labor and Employment.

1 **AN ACT to repeal** 36.09 (1) (k) 2. c., 36.09 (1) (k) 2. d. and 230.14 (2); **to renumber**
2 **and amend** 230.25 (3); **to amend** 36.09 (1) (k) 2. b., 230.14 (1), 230.16 (2),
3 230.16 (3), 230.25 (1), 230.31 (1) (intro.), 230.31 (1) (a), 230.31 (1) (b), 230.33 (1),
4 230.35 (1) (g) 2. and 230.40 (3); and **to create** 230.25 (3) (b) of the statutes;
5 **relating to:** various measures affecting the state civil service.

Analysis by the Legislative Reference Bureau

This bill does all of the following:

1. Under current law, with certain exceptions, the department of employment relations (DER) is required to certify for vacant classified civil service positions the top 5 names from the register of eligible applicants if the register has fewer than 50 names or the top 10% of names if the register has more than 50 names but an agency never has to interview more than 10 persons for a single position.

This bill authorizes DER to certify any number of names from the register, but requires DER to determine the number of names based on statistical methods and personnel management principles that are designed to maximize the number of certified names that are appropriate for the specific, classified civil service position vacancy.

2. Under current law, competitive examinations for positions in the classified service of the state are free and open to all applicants who are residents of this state and who have fulfilled the preliminary requirements for the positions that are stated in the announcement for the examination. Also, under current law, if a critical need for employees in specific classifications or positions exists, the administrator of the division of merit recruitment and selection in DER may open competitive examinations to persons who are not residents of this state. This bill eliminates the general residency requirement for taking a competitive examination for a position in the classified service of the state.

3. Under current law, the administrator of the division of merit recruitment and selection in DER is prohibited from recruiting for state employee positions outside of this state unless he or she determines that there is a critical shortage of residents of this state who possess the skills or qualifications necessary for the positions. This bill eliminates this prohibition.

4. Under current law, the administrator of the division of merit recruitment and selection in DER is authorized to 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 vacant positions in the classified service. All board members must be well-qualified and impartial and at least one must be from outside of the state civil service. This bill eliminates the requirement that at least one of the board members must be from outside of the state civil service.

5. Under current law, any person who has held a position in state employment and has obtained permanent status in class and who has separated from state service is eligible for reinstatement to state service for a period of 3 years following separation from state service. The person must have separated from state service for reasons of economy or other reasons, but not for any delinquency or misconduct. The right of reinstatement provides a person with eligibility for reinstatement in a position having a comparable or lower pay rate or range to the position the person previously held. This bill increases this reinstatement period to 5 years following separation from state service.

Similarly, under current law, a person in the classified service who is appointed to a position in the unclassified service 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 has the right of reinstatement for a period of 3 years following appointment to the unclassified position. This bill increases this reinstatement period to 5 years following appointment to the unclassified position.

Finally, under current law, a person who separates from classified service to fill an elective position has the right of reinstatement for 3 years following separation from the classified service. This bill increases this reinstatement period to 5 years following separation from the classified service.

6. Under current law, the board of regents of the University of Wisconsin System must, with respect to academic staff, correct pay inequities based on gender or race. Pursuant to this duty, the board must establish and maintain job categories in which to place academic staff positions and these job categories must be described in such detail to enable the board to correct pay inequities based on gender or race. In addition, under current law, the board must establish pay ranges for academic staff using the job evaluation system developed by the secretary of employment relations. Finally, under current law, the board must submit the job categories and pay ranges for academic staff to the secretary of employment relations for review and approval and must submit any additional changes concerning the job categories and pay ranges to the secretary of employment relations for review and approval.

This bill eliminates the requirement that the board must establish pay ranges for academic staff using the job evaluation system developed by the secretary of

employment relations. Instead, the board may use any job evaluation system. Also, the bill eliminates the requirement that the board must submit the job categories and pay ranges for academic staff to the secretary of employment relations for review and approval and must submit any additional changes concerning the job categories and pay ranges to the secretary of employment relations for review and approval.

7. The bill requires that DER conduct an evaluation of the certification procedures for filling positions in the classified service of the state with respect to the impact of the certification procedures on the state's affirmative action policy and the affirmative action plans of state agencies. Under the bill, DER must submit the results of the evaluation to the legislature and the governor no later than one year after the effective date of the bill.

8. Finally, under current law the term of eligibility on original entrance and promotional registers is 6 months. This bill provides that the administrator of the division of merit recruitment and selection in DER may allow such a register to expire after 3 months, but only after considering the impact of such an action on the policy of the state to provide for equal employment opportunity and to take affirmative action.

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

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

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

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

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

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

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

10 230.14 (1) Recruitment for classified positions shall be an active continuous
11 process conducted in a manner that assures a diverse, highly qualified group of
12 applicants; and shall be conducted, ~~except as provided under sub. (2),~~ on the broadest

1 possible base consistent with sound personnel management practices and an
2 approved affirmative action plan or program. Due consideration shall be given to the
3 provisions of s. 230.19.

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

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

6 230.16 (2) Competitive examinations shall be free and open to all applicants
7 who ~~at the time of application are residents of this state and who~~ have fulfilled the
8 preliminary requirements stated in the examination announcement. To assure that
9 all ~~residents of this state~~ applicants have a fair opportunity to compete,
10 examinations shall be held at such times and places as, in the judgment of the
11 administrator, most nearly meet the convenience of applicants and needs of the
12 service. ~~If a critical need for employes in specific classifications or positions exists,~~
13 ~~the administrator may open competitive examinations to persons who are not~~
14 ~~residents of this state.~~

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

16 230.16 (3) The administrator may appoint boards of examiners of at least 2
17 persons for the purpose of conducting oral examinations as a part of the examination
18 procedure for certain positions. All board members shall be well-qualified and
19 impartial ~~and at least one shall be from outside of the civil service.~~ All questions
20 asked and answers made in any examination of applicants shall be recorded and
21 made a part of the records of the applicants.

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

23 230.25 (1) Appointing authorities shall give written notice to the administrator
24 of any vacancy to be filled in any position in the classified service. The administrator
25 shall certify, under this subchapter and the rules of the administrator, from the

1 register of eligibles appropriate for the kind and type of employment, the grade and
2 class in which the position is classified, ~~the 5 any number of names at the head~~
3 ~~thereof if the register of eligibles is less than 50. If the register is more than 50, the~~
4 ~~top 10%, with any fraction rounded to the next whole number, up to a maximum of~~
5 ~~10 names, shall be certified. In determining the number of names to certify, the~~
6 ~~administer shall use statistical methods and personnel management principles that~~
7 ~~are designed to maximize the number of certified names that are appropriate for~~
8 ~~filling the specific position vacancy. Up to 2 persons considered for appointment 3~~
9 ~~times and not selected may be removed from the register for each 3 appointments~~
10 ~~made. Certification under this subsection shall be made before granting any~~
11 ~~preference under s. 230.16 (7).~~

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

14 230.25 (3) (a) ~~The Subject to par. (b), the~~ term of eligibility on original entrance
15 and promotional registers is 6 months and thereafter the register expires but may
16 be reactivated by the administrator for up to 3 years from the date of the
17 establishment of the register. ~~The Except as provided in ss. 230.28 and 230.34, the~~
18 ~~eligibility of individuals for reinstatement or is 5 years and the eligibility of~~
19 ~~individuals for restoration is 3 years except as provided in ss. 230.28 and 230.34.~~

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

21 230.25 (3) (b) The administrator may allow a register to expire after 3 months,
22 but only after considering the impact of such an action on the policy of this state to
23 provide for equal employment opportunity and to take affirmative action, as
24 specified in s. 230.01 (2).

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

1 230.31 (1) (intro.) Any person who has held a position and obtained permanent
2 status in a class under the civil service law and rules and who has separated from
3 the service without any delinquency or misconduct on his or her part but owing to
4 reasons of economy or otherwise shall be granted the following considerations for a
5 ~~3-year period from the date of such separation:~~

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

7 230.31 (1) (a) ~~Such~~ For a 5-year period from the date of separation, the person
8 shall be eligible for reinstatement in a position having a comparable or lower pay rate
9 or range for which such person is qualified.

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

11 230.31 (1) (b) ~~In addition,~~ For a 3-year period from the date of separation, if
12 on layoff status, the person shall be placed, in inverse order of layoff, on an
13 appropriate mandatory restoration register for the unit used for layoff and on a
14 restoration register for the agency from which the person was laid off. Use of such
15 registers shall be subject to the rules of the administrator.

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

17 230.33 (1) A person appointed by the governor, elected officer, judicial body or
18 by a legislative body or committee, or by any other appointing authority when both
19 the classified and unclassified positions are within his or her department, shall be
20 granted a leave of absence without pay for the duration of the appointment and for
21 3 months thereafter, during which time the person has restoration rights to the
22 former position or equivalent position in the department in which last employed
23 without loss of seniority. The person shall also have reinstatement privileges for 3
24 5 years following appointment to the unclassified service or for one year after
25 termination of the unclassified appointment whichever is longer. Restoration rights

1 and reinstatement privileges shall be forfeited if the reason for termination of the
2 unclassified appointment would also be reason for discharge from the former
3 position in the classified service.

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

5 230.35 (1) (g) 2. Left the service through resignation or layoff and is reemployed
6 or recalled within ~~3~~ 5 years.

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

8 230.40 (3) A person who separates from the classified service to fill an elective
9 position shall have reinstatement privileges for ~~3~~ 5 years following termination from
10 the classified service or for one year following termination from the elective position,
11 whichever is longer.

12 **SECTION 17. Nonstatutory provisions.**

13 (1) CERTIFICATION EVALUATION. The department of employment relations shall
14 evaluate the certification procedures developed under section 230.25 (1) of the
15 statutes, as affected by this act, with respect to the impact of the certification
16 procedures on the state's affirmative action policy and the affirmative action plans
17 of state agencies. The department shall submit the results of the evaluation to the
18 legislature, in the manner provided under section 13.172 (2) of the statutes, and to
19 the governor no later than one year after the effective date of this subsection.

20 **SECTION 18. Initial applicability.**

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

