

1999 ASSEMBLY BILL 123

February 16, 1999 – Introduced by Representatives GUNDERSON, JENSEN, NASS, MUSSER, FREESE, JOHNSRUD, HANDRICK, HUEBSCH and KREIBICH, cosponsored by Senators FITZGERALD, HUELSMAN, WELCH and SCHULTZ. Referred to Committee on Urban and Local Affairs.

1 **AN ACT** *to repeal* 59.26 (1) (c); *to amend* 17.03 (4) (d), 60.37 (1), 62.13 (4) (d),
2 63.08 (1) (a) and 63.25 (1) (a); and *to create* 66.188 of the statutes; **relating to:**
3 prohibiting cities, villages, towns, counties and school districts from imposing
4 residency requirements on certain employees.

Analysis by the Legislative Reference Bureau

With some exceptions, this bill prohibits local governmental units (cities, villages, towns, counties and school districts) from requiring, as a condition of employment, that any nonelective employe or prospective employe reside within any jurisdictional limits. Exceptions to the general prohibition include certain public officials appointed by the mayor of a 1st class city (presently only Milwaukee), town sanitary district commissioners and certain school board officials. In addition, the prohibition does not apply to any other state law requiring residency for a municipal position or to any state or municipal requirement for state residency.

The bill also allows a local governmental unit to impose a residency requirement on police officers or firefighters that requires such personnel to live at least 15 miles from the boundary of the local governmental unit. If, however, a local governmental unit has in effect a less restrictive residency requirement on the effective date of the bill that applies to police officers or firefighters who are employed by the local governmental unit on the effective date of the bill, such personnel would not be subject to a residency requirement that requires other police officers and firefighters to live at least 15 miles from the boundary of the local governmental unit.

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For further information see the *state and local* 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.** 17.03 (4) (d) of the statutes is amended to read:

2 17.03 **(4)** (d) If the office is local and appointive, and residency, subject to s.
3 66.188, is a local requirement, the county, city, village, town, district or area within
4 which the duties of the office are required to be discharged.

5 **SECTION 2.** 59.26 (1) (c) of the statutes is repealed.

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

7 60.37 **(1)** GENERAL. The town board may employ on a temporary or permanent
8 basis persons necessary to carry out the functions of town government. The board
9 may establish the qualifications and terms of employment, which may not include
10 the residency of the employe. The board may delegate the authority to hire town
11 employes to any town official or employe.

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

13 62.13 **(4)** (d) The examination shall be free for all U.S. citizens over 18 and
14 under 55 years of age, with proper limitations as to residence, health and, subject to
15 ss. 111.321, 111.322 and 111.335, arrest and conviction record. The examination,
16 including minimum training and experience requirements, shall be job-related in
17 compliance with appropriate validation standards and shall be subject to the
18 approval of the board and may include tests of manual skill and physical strength.
19 All relevant experience, whether paid or unpaid, shall satisfy experience
20 requirements. The board shall control examinations and may designate and change
21 examiners, who may or may not be otherwise in the official service of the city, and

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1 whose compensation shall be fixed by the board and paid by the city. Veterans and
2 their spouses shall be given preference points in accordance with s. 230.16 (7).

3 **SECTION 5.** 63.08 (1) (a) of the statutes is amended to read:

4 63.08 (1) (a) Any applicant for an examination under s. 63.05 shall be a resident
5 of this state before applying for an examination, but the commission may not require
6 any period of residency in the county for entrance to an examination or employment
7 in the county. The commission may require an applicant to file a written application
8 form which bears upon the applicant's fitness for a vacant position and which the
9 commission deems necessary. For a position offering a skilled, technical or
10 professional service, upon a finding that a suitable number of qualified applicants
11 cannot be obtained from within the state, the commission may open the examination
12 to residents of other states. Residency in this state may be waived for an applicant
13 for an examination for a position which requires a license in a health care field. No
14 question pertaining to political affiliation or religious faith may be asked of any
15 applicant for an examination.

16 **SECTION 6.** 63.25 (1) (a) of the statutes is amended to read:

17 63.25 (1) (a) For open, competitive examinations and for other examinations
18 by which to test applicants for office or for employment as to their practical fitness
19 to discharge the duties of the positions which they desire to fill, which examinations
20 shall be public and free to all persons with proper limitations as to ~~residence~~, age,
21 health and, subject to ss. 111.321, 111.322 and 111.335, arrest and conviction record.

22 **SECTION 7.** 66.188 of the statutes is created to read:

23 **66.188 Employee residency requirements prohibited. (1)** The legislature
24 finds that public employe residency requirements are a matter of statewide concern.

25 **(2)** In this section:

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1 (a) “Emergency personnel” means a law enforcement officer or a firefighter.

2 (b) “Local governmental unit” means any city, village, town, county or school
3 district.

4 (3) Except as provided in sub. (4), no local governmental unit may require, as
5 a condition of employment, that any employe or prospective employe reside within
6 any jurisdictional limit.

7 (4) (a) This section does not affect any statute that requires residency within
8 the jurisdictional limits of any local governmental unit or town sanitary district, or
9 any provision of law that requires residency in this state.

10 (b) Subject to par. (c), a local governmental unit may impose a residency
11 requirement on emergency personnel that requires the emergency personnel to live
12 at least 15 miles from the boundary of the local governmental unit.

13 (c) If a local governmental unit has a residency requirement that is in effect on
14 the effective date of this paragraph [revisor inserts date], that applies to
15 emergency personnel and that requirement is less stringent than a residency
16 requirement described under par. (b), a residency requirement that is enacted or
17 adopted under par. (b) may not be applied to any emergency personnel who are
18 employed by that local governmental unit on the effective date of this paragraph
19 [revisor inserts date].

20 **SECTION 8. Initial applicability.**

21 (1) This act first applies to any city, village, town, county or school district
22 whose employes are covered by a collective bargaining agreement that is in effect on
23 the effective date of this subsection upon the expiration, extension, renewal or
24 modification of the agreement.

25 (END)