

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/10/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget-in**

By/Representing: **Etzler**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies: **TNF**

**Pre Topic:**

DOA:.....Etzler -

**Topic:**

Administrator of the division of state patrol

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 11/12/98	ptellez 11/17/98		_____			State Retire
/P1	nilsepe 02/2/99	gilfokm 02/2/99	hhagen 11/17/98	_____	lrb_docadmin 11/17/98		State Retire
/P2			lpaasch 02/3/99	_____			State Retire
/P3				_____	lrb_docadmin 02/3/99		State Retire

Vers.      Drafted      Reviewed      Typist      Proofed      Submitted      Jacketed      Required

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/P5      nilsepe  
         02/15/99

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jfrantze  
02/15/99

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lrb\_docadmin  
02/15/99

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/P8

FE Sent For:

<END>

## **Nilsen, Paul**

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**From:** Schmiedicke, David  
**Sent:** Saturday, February 13, 1999 2:57 PM  
**To:** Nilsen, Paul  
**Cc:** Etzler, John  
**Subject:** DOT -- Authorized Number of State Patrol Troopers

Paul: I've left you a couple of voice mail messages on this issue. I think the interaction of the increase in the trooper strength with giving the administrator "superintendent" status contradicts our intent to increase the authorized strength of the state patrol by 14 positions. I see two options to address the problem:

1. Change 400 to 401. Since we've only authorized 14 new troopers, the 1 would remain unutilized unless the administrator meets the qualifications for superintendent.
2. Exempt the division administrator that qualifies as superintendent from the 400.

Thanks.

*David P. Schmiedicke*  
*Wisconsin Department of Administration*  
Voice -- (608) 266-1040  
FAX -- (608) 267-0372  
E-Mail -- david.schmiedicke@doa.state.wi.us

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/P2		<i>1/3 3/14 jlg</i> lpaasch 02/3/99		_____			State Retire
/P3			<i>2/15</i>	<i>2/15</i> _____	lrb_docadmin 02/3/99		
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<END>

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By/Representing: Etzler

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<END>

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May Contact:

Alt. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies: **TNF**

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**Topic:**

DOA:.....Etzler - administrator division state patrol retains law enforcement authority



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**Instructions:**

See Attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	nilsepe	11-13 King	# 11/17	# 11/17			

FE Sent For:

<END>

**Nilsen, Paul**

**From:** Etzler, John [John.Etzler@doa.state.wi.us]  
**Sent:** Monday, November 09, 1998 3:51 PM  
**To:** Nilsen, Paul  
**Subject:** FW:

Paul -- Please have this drafted. Let me know if you have any questions.  
Thanks.

> -----Original Message-----

> From: Schmiedicke, David  
> Sent: Monday, November 09, 1998 11:54 AM  
> To: Etzler, John  
> Subject: FW:

> Please have this drafted for the budget. Also include this proposal in  
> the DOT statutory language briefing document. Thanks.

> David P. Schmiedicke  
> Wisconsin Department of Administration  
> Voice -- (608) 266-1040  
> FAX -- (608) 267-0372  
> E-Mail -- david.schmiedicke@doa.state.wi.us

> -----Original Message-----

> From: Simonson, Stewart -6-1212  
> Sent: Monday, November 09, 1998 11:53 AM  
> To: Schmiedicke, David  
> Subject:

> A sub-section in section 110.07 should be created substantially similar to  
> the following language:

> The person appointed to the unclassified position designated by the  
> secretary to manage the state traffic patrol shall hold the rank of  
> superintendent if that person is a certified law enforcement officer under  
> the laws of the state of Wisconsin. The superintendent of the state  
> traffic patrol shall have the powers of a state traffic patrol officer,  
> but such position shall not be included in the number of state traffic  
> patrol officers authorized in sub. (1)(a).

*Administrator  
of State Patrol*

> The drafter may have to make some other changes to make this section work.  
> The rationale is that if we're going to have the administrator driving  
> around the state in his official capacity, we should give him the power to  
> enforce traffic laws that he or she sees being broken. Additionally, it  
> will give us a better pool of people to choose from since police types do  
> not generally want to take a job where they lose law enforcement officer  
> status. Finally, most officials who head state highway patrol agencies  
> are called commissioner or superintendent or commandant, etc. and have law  
> enforcement powers. This change would increase the stature of the  
> administrator when he or she is dealing with other state highway patrol  
> agencies.

**CORRESPONDENCE\MEMORANDUM**

**STATE OF WISCONSIN  
Department of Administration**

**Date:** November 10, 1998

**To:** Steve Miller  
Legislative Reference Bureau

**From:** John M. Etzler *JME*  
Policy and Budget Analyst

**Subject:** Statutory Language Change

Please draft legislation for the budget that would allow for the superintendent of the state traffic patrol to have the same powers of a state traffic patrol officer if that person was a certified law enforcement officer under the laws of the State of Wisconsin before accepting the superintendent position. The superintendent should not be included in the total number of state traffic patrol officers authorized in s. 110.07, sub. (1)(a), Wisconsin Statutes.

Please call me at 266-1039 if you have any questions or concerns.

cc: David Schmiedicke

*Received by LRB 10/12/98 - PEN*



---

**Nilsen, Paul**

---

**From:** Nilsen, Paul  
**Sent:** Wednesday, November 11, 1998 11:38 AM  
**To:** 'Kernats, Mike'  
**Subject:** DSP Administrator--FYI

Thanks again for the info on the DSP Administrator. DOA Analyst John Etzler authorized me to discuss the request with DOT.

The drafting request came from Stewart Simonson in the governor's office, which explains why you never saw the request. Stewart Simonson today told me the purpose of the request is to: 1) grant protective occupation status to the Administrator, if qualified to be employed as law enforcement officer; 2) grant state patrol law enforcement authority and title of "Superintendent" to the Administrator, if qualified to be employed as law enforcement officer; 3) ensure that Administrator remains uncouncted under DSP's 385 officer limit. I'm using your drafts as models.

Paul E. Nilsen  
(608) 261-6926  
Legislative Attorney  
State of Wisconsin



**Wisconsin Department of Transportation**

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P.O. Box 7810  
4802 Sheboygan Avenue, Rm. 115B  
Madison, WI 53707  
(608) 266-8810 [Office]  
(608) 267-6734 [FAX]

**FAX MEMORANDUM**

To: Paul Nilsen, Legislative Attorney  
From: Mike Kernats, Assistant General Counsel  
Date: November 10, 1998  
Re: DSP Administrator Legislation

Here is a copy of the relevant information from my file. I didn't know that DOT had submitted the request you are currently working on. I should have been consulted before this was sent to you, but I don't think it will make any difference now that you have this information.

Recipient's FAX Number:

264-8502

Total Pages: 13



## Wisconsin Department of Transportation

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF THE SECRETARY  
P. O. Box 7910  
Madison, WI 53707-7910

August 19, 1993

Jon E. Litscher, Secretary  
Department of Employment Relations  
137 East Wilson Street  
Madison, WI 53707-7855

Dear Secretary Litscher:

Pursuant to section 40.06(1)(d)ff, Stats., I am asking for your consideration of my request to include the State Patrol Administrator position, which is currently held by William L. Singletary, in the "protective" category for purposes of the Wisconsin Retirement System. Based on the criteria for inclusion as a "protective occupation participant" described in section 40.02(48)(a), Stats., the Administrator position meets all of the necessary qualifications.

Public safety is the key responsibility of the Administrator's position. The primary duties include active law enforcement and high level supervision of law enforcement officers. These duties require frequent exposure to a high degree of danger or peril, as well as a high degree of physical conditioning. For example, the Administrator is on-site and in command during critical incidents, such as spearfishing and prison riots.

In order to effectively direct and command the State Patrol, certification in law enforcement is necessary. In this particular case, Mr. Singletary was a certified law enforcement officer for 27 years until his appointment as State Patrol Administrator. He has participated in all in-service training sessions required for annual recertification, and he meets all academic, competency-based, and physical standards as established by the Law Enforcement Standards Board.

According to section 40.02(48)(b)(1 & 2), Stats., a police officer and a fire fighter are both defined as "any officer, including the chief...." The Administrator's position is clearly the chief of the State Patrol and should be considered equally under the Statute. In addition, the Administrator reports directly to the Secretary of WisDOT, who is a non-law enforcement civilian. This relationship is comparable to the Chief of Police and the Fire Chief, who both report to the Mayor of the city.

I appreciate your consideration of this request.

Sincerely,

  
Charles H. Thompson, Secretary  
Department of Transportation

UC, *COPIES*  
*Alks*

RECEIVED

State of Wisconsin

FEB 01 1994

*Jimmy G. Thompson*  
Governor

*Jan E. Lischer*  
Secretary

OFFICE OF THE SECRETARY



137 East Wilson Street  
P.O. Box 7855  
Madison, WI 53707-7855

DEPARTMENT OF EMPLOYMENT RELATIONS

January 28, 1994

RECEIVED

Mr. Charles H. Thompson, Secretary  
Department of Transportation  
4802 Sheboygan Avenue  
Madison, Wisconsin

FEB 01 1994

OFFICE OF  
THE SECRETARY

Dear Secretary Thompson:

The Department of Employment Relations (DER) has completed its review of your agency's determination that the employe, William Singletary, who holds the unclassified position of Administrator, Division of State Patrol, should be designated as a "protective occupation participant" for purposes of the Wisconsin Retirement System. Based on this review, DER approves your request to certify Mr. Singletary to the fund as a "protective occupation participant." Our rationale in support of this decision is as follows.

A state employe may be granted "protective occupation status" in one of two ways: (1) DER approves the designation in accordance with the criteria in s. 40.02 (48) (a), Wis. Stats., or (2) the position is specifically enumerated by the Legislature under s. 40.02 (48) (am), Wis. Stats. Enumerated positions under s. 40.02 (48) (am) include "conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation pilot, conservation patrol officer, forest fire control assistant, member of the state patrol, state patrol motor vehicle inspector, police officer, fire fighter, sheriff, undersheriff, deputy sheriff, county traffic police officer, state forest ranger, fire watcher employed by the Wisconsin veterans home, state correctional-psychiatric officer, excise tax investigator employed by the department of revenue, special criminal investigation agent in the department of justice, assistant or deputy fire marshal, or person employed under s. 61.66 (1)." (Emphasis added.)

While s. 40.02 (48) (am), Wis. Stats., does not elaborate on the breadth of positions included under "member of the state patrol," it is DER's interpretation that "member of the state patrol" should be interpreted to include the unclassified Division Administrator of the State Patrol. The current incumbent, Mr. Singletary, is currently on a mandatory leave of absence from a classified position (Administrative Officer 5, Deputy Administrator/State Patrol Colonel) which is included under "protective status." He also maintains his certification as a law enforcement officer in

Mr. Charles H. Thompson

Page 2

January 28, 1994

the state of Wisconsin and functions in a direct supervisory line over positions clearly enumerated in s. 40.02 (48) (am) as "protective occupation participants." By becoming the unclassified Division Administrator of the State Patrol, he does not cease to be a "member of the state patrol."


By analogy, this interpretation is further supported by s. 40.02 (48) (b) 1 and 2 which provide that "[a] 'police officer' is any officer, including the chief" and "[a] 'fire fighter' is any officer, including the chief." Similarly, it should follow that "member of the state patrol" was intended to include the "head of the state patrol."

Therefore, based on the above, DER is approving your request to designate Mr. Singletary, who holds the position of Administrator, Division of State Patrol, as a "protective occupation participant" for retirement purposes. This determination is effective September 5, 1993, the beginning of the first pay period following receipt of the request for "protective status" at DER.

In order to ensure his continued status as a "protective occupation participant," we recommend that the Department of Transportation take steps to amend s. 110.07, Wis. Stats., to specifically identify the unclassified Division Administrator position as the head of the State Patrol and to clarify that the classified Deputy Administrator is also a state patrol member.

If Mr. Singletary does not agree with this determination, he may file an appeal by writing to the Employee Trust Funds Board, 201 East Washington Avenue, Room 171, Madison, Wisconsin, 53702, within 90 days of receipt of this letter.

Sincerely,



Jon E. Litscher, Secretary  
Department of Employment Relations

JEL/SKN/MJM

cc: William Singletary



Wisconsin Department of Transportation  
Office of General Counsel



MEMORANDUM

Date: February 28, 1994  
To: James S. Thiel, General Counsel  
From: Charles M. Kernats, Assistant General Counsel *Chas. M. Kern*  
Subject: Protective Occupation Status for State Patrol Administrator

-----

The Department of Employment Relations approved Secretary Thompson's request to designate William Singletary, the current Administrator of the Division of State Patrol, as a "protective occupation participant" for purposes of the Wisconsin Retirement System, as authorized by s. 40.06(1)(dm), Stats. This determination is in a letter signed by the Secretary of DER and dated January 28, 1994. Secretary Thompson requested that protective occupation status be granted under the criteria in s. 40.02(48)(a), Stats. The Department of Employment Relations approved the request, but pursuant to different criteria in s. 40.02(48)(am), Stats. In addition to approving Secretary Thompson's request, DER recommended "... that the Department of Transportation take steps to amend s. 110.07, Wis. Stats., to specifically identify the unclassified Division Administrator position as the head of the State Patrol and to clarify that the classified Deputy Administrator is also a state patrol member."

You asked me to review DER's recommendation that s. 110.07, Stats., be amended. I agree with DER's recommendation.

The Office of General Counsel has addressed this issue before. Theodore Meekma, Mr. Singletary's predecessor as State Patrol Administrator, asked for an opinion about his ability to serve as a law enforcement officer and his qualification for protective occupation status. In a memo dated June 20, 1990, you advised Mr. Meekma that he could not serve as a law enforcement officer and did not qualify for protective occupation status because, as the unclassified Administrator of the State Patrol, he was not a member of the State Patrol under s. 110.07(1)(a), Stats. A copy of your June 20, 1990 memo is attached.

Prior to submitting the request to DER, State Patrol asked for my advice about obtaining protective occupation status for Administrator Singletary. In 2 separate e-mail messages, I advised State Patrol to amend s. 110.07, Stats. These 2 e-mail messages,

dated July 22 and August 16, 1993, are attached.

Further, I have attached an e-mail message from William Jordahl dated July 22, 1993, stating that the Governor had previously requested that DOT pursue a statutory change making the State Patrol Administrator a protective occupation position.

There are significant practical reasons for amending the statutes to specifically authorize protective occupation status for the State Patrol Administrator. The first is consistency and fairness. As noted above, the previous State Patrol Administrator was denied protective occupation status, while Administrator Singletary was granted it. The second is appearance of political influence. There is a gubernatorial election this year, and any possible appearance of political influence in the decision to grant protective occupation status to the unclassified position of State Patrol Administrator should be eliminated. Amending the statutes will remove any appearance of favoritism based upon the Governor's political or personal preference. Finally, DER may be reluctant to grant requests for protective occupation status for future State Patrol Administrators if DOT fails to follow DER's recommendation to amend the statutes.

The Department can ensure that subsequent State Patrol Administrators will be guaranteed protective occupation status by amending either s. 40.02(48)(b) or s. 110.07(1)(a), Stats.

Section 40.02(48)(b) can be amended by creating paragraph 4, which would read:

40.02(48)(b)4. A "member of the state patrol" includes the administrator and the deputy administrator of the division of state patrol.

Section 110.07(1)(a) can be amended by adding the following language:

The secretary shall employ not to exceed 385 traffic officers. Such traffic officers, in addition to the person designated to head them whose position shall be in the classified service, and the administrator of the division of state patrol whose position shall be in the unclassified service, shall constitute the state traffic patrol, and shall:

Either of these amendments would accomplish the goal of ensuring that the State Patrol Administrator will be granted protective occupation status, and that the Administrator will remain in the unclassified service as required by s. 230.08(2)(e) and (4), Stats.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: June 20, 1990

FILE COPY

TO: Ted Meekna

FROM: Jim Thiel *Jim Thiel*

SUBJECT: State Patrol Administrator As State Patrol Law Enforcement Officer

Recently you asked whether the Administrator of the Division of State Patrol may also be a State Patrol law enforcement officer. Under current law, the answer to your question appears to be NO.

The two reasons for this conclusion are: First, the position of State Patrol Administrator is not that of a law enforcement officer and cannot be that of a State Patrol law enforcement officer under current statutes and civil service rules relating to state employment. Second, the position of State Patrol Administrator is incompatible with that of a State Patrol law enforcement officer, legislative history shows that the two functions were intended to remain separate and distinct.

A more complete explanation follows:

To hold a position as a law enforcement officer in the State of Wisconsin an individual must first meet the recruitment and training requirements of the Wisconsin Law Enforcement Standards Board. One then becomes "eligible for permanent employment" as a law enforcement officer. Secs. LES 2.01 and 3.01, Wis. Adm. Code. "Law enforcement officer" is defined as:

"...(A)ny person EMPLOYED by the state or any political subdivision of the state, FOR THE PURPOSE OF detecting and preventing crime and enforcing law or ordinances and who is authorized to make arrests for violations of the laws or ordinances he is employed to enforce." (Emphasis added.)

Sec. 165.85(2)(c), Stats.; see also sec. LES 1.03(B), Wis. Adm. Code.

There is no provision in Wisconsin for a person, who is eligible to be a law enforcement officer to be authorized to act as a law enforcement officer except through employment as such by an authorizing agency. The nature of the employment from the statute quoted above is the performance of traditional law enforcement functions. To be a law enforcement officer, one must also be considered a law enforcement officer by one's employing agency.



Persons employed to perform the functions of law enforcement officer in the Wisconsin State Patrol do not hold their positions under a general authorization, but instead by precise statute. Section 110.07(1)(a), Stats., describes the "state traffic patrol":

"The secretary shall employ not to exceed 385 traffic officers. Such traffic officers, in addition to the person designated to head them whose position shall be in the classified service, shall constitute the state traffic patrol, and shall: 1. Enforce and assist in the administration of this chapter and (other chapters and sections). 2. Have the powers of sheriff in enforcing the laws specified in subd. 1 and orders or rules issued pursuant thereto."

This section both defines and limits the law enforcement officers of the state traffic patrol. A law enforcement officer of the state traffic patrol must be one of the statutorily-specified 385 "traffic officers," or the "person designated to head them" whose position is in the classified service. An inspector authorized under sec. 110.07(3), Stats., is also a law enforcement officer by enumeration of the functions and powers accorded inspectors. Thus, to be a law enforcement officer in the State Patrol an individual must be either a traffic officer (trooper), the "person designated to head" the traffic officers (colonel), or an inspector. The State Patrol Administrator, however, is not eligible to fill any of these law enforcement positions.

There are three reasons for this conclusion. First, the position of State Patrol Administrator is excluded by state service classification from filling one of the State Patrol's law enforcement positions.

The position of State Patrol Administrator is within the unclassified service. Sec. 230.08(2)(a), Stats. None of the State Patrol law enforcement positions (colonel, trooper or inspector) are within the unclassified service. The person "designated to head" the state traffic patrol (colonel) is required by sec. 110.07(1) to be within the classified service. Troopers and inspectors are within the classified service because they are not expressly listed in the unclassified service and because they are not excluded from the classified service by any other operation of statute. See sec. 230.08(2) generally and par. (2)(2) in particular. Section 230.08(3) requires that all positions "not included in the unclassified service" are positions in the classified service; thus, the two classifications are mutually exclusive. The State Patrol Administrator may not hold within one position simultaneously both a classified and unclassified status. Incidentally, such a position would also involve conflicting employment and retirement benefits.

Second, even if the State Patrol Administrator were not precluded by civil service classification from holding a law enforcement position in the State Patrol, he in all likelihood would be precluded from such status by the statute prohibiting dual state employment.

Section 16.417(2), Stats., prohibits a person already employed in a full-time position by a state agency or authority from holding "any other position" or being retained in "any other capacity" with a state agency or authority "from which the individual receives, directly or indirectly, more than \$5,000 from the agency or authority as compensation for the individual's services during the same year." The positions of State Patrol Administrator, "head" of the state traffic patrol (colonel), traffic officer (trooper) and inspector are all full-time positions budgeted to provide compensation of more than \$5,000 per year for the individual's services in that position. By opinion of the Wisconsin Attorney General, sec. 16.417(2) would prohibit as dual employment the condition where an employee works in one position and receives more than \$5,000 for work in a second position in the same state agency; or where an employee's first position is a budgeted full-time position but the employee works less than full-time in that position. OAG 55-88 (1988), 2-4. It is not clear from the opinion whether working full-time in a first position and only part-time in a second position budgeted full-time would be prohibited dual state employment. However, the reasoning and interpretation used in the opinion support that conclusion.

Third, incompatibility between the positions of State Patrol Administrator and that of a law enforcement officer in the State Patrol also appears to prohibit the simultaneous holding of both positions by the same individual.

The question of incompatibility in public offices has been discussed at length in various Attorney General Opinions. Essentially, incompatibility of office exists when there is a conflict of duties between two offices or positions. 74 Op. Att'y Gen. at 52-53, cited in OAG 10-89. This conflict of duties or incompatibility is further explained in OAG 65-88, at 5:

"Sound public policy does not permit one to occupy two employment positions, one of which exercises supervisory power over the other. Incompatibility exists where in the established governmental scheme one office is subordinate to another or subject to its supervision or control. (Citation omitted.) Incompatibility of offices does not disappear by virtue of the office-holder's impartiality or ability to separate the functions of the two offices. If the duties of the two offices are such that placed on one person they might or will conflict even on rare occasions, the offices are incompatible. (Citation omitted.)

The position of Administrator of the State Patrol is superior to other employment positions, including those of law enforcement officers, in the State Patrol. Thus it would be incompatible for one person to occupy both positions. Furthermore, the Administrator exercises direct supervisory control over the deputy administrator (colonel), who heads the traffic officers of the State Patrol. For the Administrator to occupy a position as traffic officer would be to place him simultaneously in control over and subordinate to the Deputy Administrator. Such a position contains an inherent conflict of offices and is incompatible.

The legislative history indicates a choice was made that the Office of State Patrol Administrator and a law enforcement officer in the State Patrol are incompatible. The highest position of authority within the agency has always been a "civilian" (non-law enforcement) position, placed within the unclassified service. In contrast, the position of colonel ("head" of the state traffic officers) was created as a law enforcement position in the classified service, distinct from the civilian head of the agency. This dichotomy of functions occurs when governments prefer to have their most powerful agencies entrusted with the use of force (the police and military) controlled and balanced by an individual independent of the enforcement ranks and able to act sensitively to other societal and political values.

Based on the nature of the limitations placed on the authority of law enforcement officers, the structure of the State Patrol, the restrictions of state service, and incompatibility of offices, I conclude that the Administrator of the State Patrol may not also concurrently be a State Patrol law enforcement officer authorized under sec. 110.07, Stats.

Date: 08/16/93  
 From: CHARLES KERNATS  
 To: William Singletary  
 Roger Hlavacka  
 Mike Moschkau  
 cc: Carl Richter  
 William Jordahl  
 Subject: Administrator Position

KERNAC - HFRC  
 SINGLW - HFRC  
 HLAVAR - HFRC  
 MOSCHM - HFRC  
 RICHTC - HFRC  
 JORDAW - HFRC

-----  
 Mike Moschkau called me this morning about getting the State Patrol Administrator position into the protective occupation class. I summarized my previous meeting with Bill and Roger. Moschkau told me that his directions are to prepare a letter requesting DER approval to include the Administrator position in the protective occupation class, as authorized by ss. 40.02(48)(a) and 40.06(1)(dm), Stats. I will review and assist him in preparing this letter. We agreed to attempt to complete this by this Friday.

This is an acceptable immediate action to get the Administrator position in the protective occupation class. However, I still believe we should also attempt to amend ss. 10.07(1)(a) and 40.02(48)(am), and possibly s. 230.08(2). I understand that we don't have the opportunity to make these statutory changes now, but I don't think we should forget about them.

Carl, you previously alerted Joe Pelliteri at DER that this might be coming. You may want to give him another call so that he knows that we intend to send it to DER either this week or next.

Date: 07/22/93  
From: CHARLES KERNATS  
To: William Singletary  
Roger Hlavacka  
cc: Mike Moschkau  
Subject: Administrator Position

KERNAC - HFRC  
SINGLW - HFRC  
HLAVAR - HFRC  
MOSCHM - HFRC

-----  
This will briefly summarize our meeting today. My initial impression is that the Administrator position can be modified only by amending either s. 230.08(2) or s. 110.07(1)(a), as well as s. 40.02(48)(am), Stats.

You will let me know if you want a formal written recommendation.

Date: 07/22/93  
From: WILLIAM JORDAHL  
To: Charles Kernats  
cc: Joe Maassen  
Subject: State Patrol Administrator  
Reference: Your note of 07/22/93 11:01 attached below

JORDAW - HFRC  
KERNAC - HFRC  
MAASSJ - HFRC

-----  
Yes; the Governor had indicated a while back that he was interested in pursuing this change in the budget. I asked State Patrol to look into it; the last I spoke with Bill and Roger and Mike Moschkau, was when the arrest authority bill was on the Assembly floor - I am pretty sure that was after the Senate had finished with the budget. The opportunity to put this in the budget is of course long gone anyway, but in retrospect it was long gone once Joint Finance finished their work. I'd recommend that you work with State Patrol to develop the right language, and we will have to think of a new strategy for enacting this. I suspect there may be some debate about this.

----- ATTACHED NOTE -----

Date: 07/22/93  
From: CHARLES KERNATS  
To: William Jordahl  
Joe Maassen  
Subject: State Patrol Administrator

KERNAC - HFRC  
JORDAW - HFRC  
MAASSJ - HFRC

-----  
I'm working on a request from State Patrol to modify the Administrator position so that it is both a protective occupation and law enforcement position. I met with Bill Singletary and Roger Hlavacka this morning. Bill told me that it was his understanding that the Governor had requested that this change be put into the Budget Bill. I don't know anything about that, do you?

---

**Nilsen, Paul**

---

**From:** Kernats, Mike [mike.kernats@dot.state.wi.us]  
**Sent:** Tuesday, November 10, 1998 11:11 AM  
**To:** Nilsen, Paul  
**Subject:** RE: DSP administrator law enforcement authority

I think I know what this is about. About 3 or 4 years ago, we dealt with the issue of how to make the DSP Administrator eligible for protective occupation status. We got DER to approve the current administrator, but DER suggested amending the appropriate statute to address future administrators. I closed that file, but will retrieve it. I can send you DER's memo to us, and I wrote a memo addressing how to amend the statute. This information will at least provide background for your work.

-----  
From: Nilsen, Paul  
To: 'mkernats@mail.state.wi.us'  
Subject: DSP administrator law enforcement authority  
Date: Tuesday, November 10, 1998 10:30AM

Mike:  
I'm working on a DOT budget request relating to the authority of the division of state patrol administrator. The request is to allow the person appointed as administrator (unclassified head of DSP) to retain law enforcement authority. Apparently, the employment in the unclassified service robs the employee of his or her law enforcement authority. I can't find any language requiring (or implying) the surrender of law enforcement powers under s. 230.08 or 110.07, stats. What gives?  
Can you give me any info as to how/why the employee loses his law enforcement authority ?

Paul E. Nilsen  
(608) 261-6926  
Legislative Attorney  
State of Wisconsin



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0797  
PEN. P. 2/2/99

DOA:.....Etzler - <sup>A</sup> administrator of the division of state patrol

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

*J-Note*

*don't gen. cat.*

- 1 AN ACT ...; relating to: the administrator of the division of state patrol in the
- 2 department of transportation.

**Analysis by the Legislative Reference Bureau**

**TRANSPORTATION  
OTHER TRANSPORTATION**

Under current law, participants under the Wisconsin retirement system (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies members of the state patrol and various other individuals as protective occupation participants. Under ~~the~~ WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants. ✓

This bill specifically classifies the administrator of the division of state patrol in the department of transportation as a protective occupation participant for the purposes of ~~the~~ WRS, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. ✓

Also under current law, the state traffic patrol consists of not more than 385 traffic officers in the classified service. Members of the state traffic patrol are charged with enforcing and assisting in the administration of state traffic laws and have the powers of sheriff in enforcing those laws. ✓

*ca*  
*(DOT)*



The bill also makes the administrator of the division of state patrol a member of the state traffic patrol (charged with enforcing and assisting in the administration of state traffic laws and having the powers of sheriff in enforcing those laws) and confers on the administrator the title of superintendent of the state traffic patrol, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. As a member of the state traffic patrol, the administrator is entitled to receive full pay and other benefits ~~including~~ <sup>including</sup> no reduction in sick leave credits ~~or~~ compensatory time for overtime accumulations or vacation ~~or~~ during any period in which the administrator is unable to work because of an injury sustained while performing certain duties that entail a considerable risk of injury or danger.

The bill does not put the administrator of the state traffic patrol in the classified service.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

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

stat

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

delete extra space - [ ]  
delete extra space [ ]

1 SECTION 1. 40.02 (48) (b) 4. of the statutes is created to read:  
2 40.02 (48) (b) 4. A "member of the state patrol" includes ~~the~~ <sup>one</sup> division  
3 administrator in the department of transportation who is counted under s. 230.08  
4 (2) (e) 12. and whose duties include supervising the state traffic patrol, if the division  
5 administrator is certified by the law enforcement standards board under s. 165.85  
6 (4) (b) 1. as being qualified to be a law enforcement officer.

7 SECTION 2. 110.07 (1) (a) (intro.) of the statutes is amended to read:  
8 110.07 (1) (a) (intro.) The secretary shall employ not ~~to exceed~~ more than 385  
9 traffic officers. ~~Such~~ The state traffic patrol consists of the traffic officers, in addition  
10 to the person designated to head them whose position shall be in the classified  
11 service, ~~shall constitute the~~ and, if certified under s. 165.85 (4) (b) 1. as qualified to

1 be a law enforcement officer, the administrator of the ~~the~~ division ~~the~~ state patrol. <sup>traffic</sup>

2 Members of the state traffic patrol, and shall:

History: 1971 c. 40, 125; 1973 c. 90, 146; 1975 c. 297; 1977 c. 29 ss. 1048, 1654 (7) (a), (c), 1656 (43); 1977 c. 305 s. 64; 1977 c. 418; 1979 c. 221; 1979 c. 333 s. 5; 1979 c. 361 s. 113; 1981 c. 96 s. 67; 1981 c. 390; 1983 a. 27; 1983 a. 175 s. 33; 1983 a. 191 s. 6; 1985 a. 29, 36, 63, 332; 1987 a. 332 s. 64; 1989 a. 31, 167, 170, 240, 335, 359; 1993 a. 25; 1995 a. 201, 227, 341.

3 **SECTION 3.** 110.07 (6) of the statutes is created to read:

4 110.07 (6) The administrator of ~~the~~ division ~~the~~ state patrol shall be designated <sup>traffic</sup>  
5 superintendent of the state traffic patrol, if he or she is certified under s. 165.85 (4)  
6 (b) 1. as qualified to be a law enforcement officer. <sub>delete space(?)</sub>

7 (END)

Who is counted under s. 230.08(2)(e)12. and whose duties include supervising the

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0797/dn  
PEN. P. King

November 11, 1998

Pldn

This draft should be reviewed by Mr. Mike Kernats, assistant legal counsel for the department of transportation. Mr. Kernats specializes in state patrol employment matters.

(DOT)

traffic ✓

252.15

By making the administrator a member of the state patrol, the draft confers benefits under ch. 40, stats., as a protective occupation participant, and hazardous employment injury benefits under s. 230.36, stats. The administrator is also made subject to the requirements under s. 110.07, stats., applicable to traffic officers, such as being available to appear as a witness. See also s. ~~252.15~~, stats., allowing state patrol members exposed to HIV to require the source individual to submit to HIV testing.

The language under proposed s. 40.02(48)(b) is a little tortured because DOT's current organization into divisions is not recognized by the statutes, so there is no statutory "administrator of the division of state patrol".

who are

Paul E. Nilsen  
Legislative Attorney  
261-6926

In this draft referring to the "division administrator who is counted under s. 230.08(2)(e)12. and whose duties include supervising the state traffic patrol"

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0797/P1dn  
PEN:pgt&kmg:hmh

Tuesday, November 17, 1998

This draft should be reviewed by Mr. Mike Kernats, assistant legal counsel for the department of transportation (DOT). Mr. Kernats specializes in state patrol employment matters.

By making the administrator a member of the state traffic patrol, the draft confers benefits under ch. 40, stats., as a protective occupation participant, and hazardous employment injury benefits under s. 230.36, stats. The administrator is also made subject to the requirements under s. 110.07, stats., applicable to traffic officers, such as being available to appear as a witness. See also s. 252.15, stats., allowing state patrol members who are exposed to HIV to require the source individual to submit to HIV testing.

The language in this draft referring to the "division administrator who is counted under s. 230.08 (2) (e) 12. and whose duties include supervising the state traffic patrol" is a little tortured because DOT's current organization into divisions is not recognized by the statutes, so there is no statutory "administrator of the division of state patrol".

Paul E. Nilsen  
Legislative Attorney  
261-6926



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0797/01  
PEN:pgt&kmg:hmh

Handwritten mark resembling a stylized '1' or '11' inside a circle.

DOA:.....Etzler - Administrator of the division of state patrol  
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

f-note

1 AN ACT <sup>Don't Gen Act.</sup> relating to: the administrator of the division of state patrol in the  
2 department of transportation.

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

Under current law, participants under the Wisconsin retirement system (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies members of the state patrol and various other individuals as protective occupation participants. Under WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill specifically classifies the administrator of the division of state patrol in the department of transportation (DOT) as a protective occupation participant for the purposes of WRS, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state.

Also under current law, the state traffic patrol consists of not more than 385 traffic officers in the classified service. Members of the state traffic patrol are charged with enforcing and assisting in the administration of state traffic laws and have the powers of a sheriff in enforcing those laws.

This bill increases the authorized number of state patrol officers from 385 to 400.  
↓  
patrol cert

The bill also makes the administrator of the division of state patrol a member of the state traffic patrol (charged with enforcing and assisting in the administration of state traffic laws and having the powers of a sheriff in enforcing those laws) and confers on the administrator the title of superintendent of the state traffic patrol, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. As a member of the state traffic patrol, the administrator is entitled to receive full pay and other benefits (including no reduction in sick leave credits, compensatory time for overtime accumulations or vacation) during any period in which the administrator is unable to work because of an injury sustained while performing certain duties that entail a considerable risk of injury or danger.

The bill does not put the administrator of the state traffic patrol in the classified service.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

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.** 40.02 (48) (b) 4. of the statutes is created to read:

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3 administrator in the department of transportation who is counted under s. 230.08  
4 (2)(e) 12. and whose duties include supervising the state traffic patrol, if the division  
5 administrator is certified by the law enforcement standards board under s. 165.85  
6 (4) (b) 1. as being qualified to be a law enforcement officer.

7           **SECTION 2.** 110.07 (1) (a) (intro.) of the statutes is amended to read:

8           110.07 (1) (a) (intro.) The secretary shall employ not to exceed more than 385 <sup>400</sup>  
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10 ~~to~~ the person designated to head them whose position shall be in the classified  
11 service, ~~shall constitute the~~ and, if certified under s. 165.85 (4) (b) 1. as qualified to  
12 be a law enforcement officer, the division administrator who is counted under s.

1 230.08 (2) (e) 12. and whose duties include supervising the state traffic patrol.

2 Members of the state traffic patrol, and shall:

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5 and whose duties include supervising the state traffic patrol shall be designated

6 superintendent of the state traffic patrol, if he or she is certified under s. 165.85 (4)

7 (b) 1. as qualified to be a law enforcement officer.

8 (END)

~~NOTE~~ NOTE: The treatment of this section by LRB-0797/1 is reconciled with LRB-1494/P2, which should not appear in the compiled bill.

-0797/Ida  
itmg:

John Etzler:

This draft is reconciled with  
LRB-1494/P2<sup>✓</sup>, which should not appear  
in the compiled bill.

-PEN





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-07974  
PEN:pgt&kmg:lp

TODAY

DOA:.....Etzler - Administrator of the division of state patrol

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

d-note

1 AN ACT <sup>do not gen</sup> ...; relating to: the administrator of the division of state patrol in the  
2 department of transportation.

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

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The bill also makes the administrator of the division of state patrol a member of the state traffic patrol (charged with enforcing and assisting in the administration of state traffic laws and having the powers of a sheriff in enforcing those laws) and confers on the administrator the title of superintendent of the state traffic patrol, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. As a member of the state traffic patrol, the administrator is entitled to receive full pay and other benefits (including no reduction in sick leave credits, compensatory time for overtime accumulations or vacation) during any period in which the administrator is unable to work because of an injury sustained while performing certain duties that entail a considerable risk of injury or danger.

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users  
2-1

1 SECTION 1. 40.02 (48) (b) 4. of the statutes is created to read:

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4 (2)(e) 12. and whose duties include supervising the state traffic patrol, if the division  
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6 (4) (b) 1. as being qualified to be a law enforcement officer.

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8 110.07 (1) (a) (intro.) The secretary shall employ not to exceed 385 more than  
9 400 traffic officers. ~~Such~~ The state traffic patrol consists of the traffic officers, ~~in~~  
10 ~~addition to~~ the person designated to head them whose position shall be in the  
11 ~~classified service, shall constitute the~~ and, if certified under s. 165.85 (4) (b) 1. as  
12 qualified to be a law enforcement officer, the division administrator who is counted

1 under s. 230.08 (2) (e) 12. and whose duties include supervising the state traffic  
2 patrol. Members of the state traffic patrol, and shall:


\*\*\*NOTE: The treatment of this section by LRB-0797/1 is reconciled with LRB-1494/P2, which should not appear in the compiled bill.

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6 superintendent of the state traffic patrol, if he or she is certified under s. 165.85 (4)  
7 (b) 1. as qualified to be a law enforcement officer.

8

(END)



insert  
FFF ✓

Index  
27

Section #. 40.02 (48) (am) of the statutes is amended to read:

40.02 (48) (am) "Protective occupation participant" includes any participant whose name is certified to the fund as provided in s. 40.06 (1) (d) and (dm) and who is a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, conservation pilot, conservation patrol officer, forest fire control assistant, member of the state patrol, state motor vehicle inspector, police officer, fire fighter, sheriff, undersheriff, deputy sheriff, state probation and parole officer, county traffic police officer, state forest ranger, fire watcher employed by the Wisconsin veterans home, state correctional-psychiatric officer, excise tax investigator employed by the department of revenue, special criminal investigation agent in the department of justice, assistant or deputy fire marshal, or person employed under s. 61.66 (1).

traffic ✓

~~History: 1981 c. 96, 187, 250, 274, 386; 1983 a. 9, 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 106, 140; 1983 a. 141 ss. 1 to 3, 20; 1983 a. 191 ss. 1, 6; 1983 a. 192 s. 304; 1983 a. 255 s. 6; 1983 a. 275, 290, 368; 1983 a. 435 s. 7; 1985 a. 29, 225; 1985 a. 332 ss. 52, 251 (1); 1987 a. 27, 62, 83, 107, 309, 340, 356, 363, 372, 399; 1987 a. 403 ss. 43 to 45, 256; 1989 a. 13, 14, 31; 1989 a. 56 s. 259; 1989 a. 166, 182, 189, 218, 230, 240, 323, 327, 336, 355, 357, 359; 1991 a. 32, 39, 113, 152, 229, 269, 315; 1993 a. 16, 263, 383, 490, 491; 1995 a. 27, ss. 1946 to 1953, 9130 (4); 1995 a. 81, 88, 89, 216, 240, 302, 381, 417; 1997 a. 3, 27, 39, 69, 110, 162, 237, 238.~~

(end index)

1999

INS  
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LRB \_\_\_\_\_/\_\_\_\_

Nonstat File Sequence

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... create → action: → \*NS: → effdate  
For the text, execute: ... create → text: → \*NS: → effdateA
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "\_\_\_\_" or "( )" only if a "frozen" number is needed.

**SECTION # \_\_\_\_ . Effective date.**

( #1 ) ( ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: ... create → action: → \*NS: → effdateE  
For the text, execute: ... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "\_\_\_\_" or "( )" only if a "frozen" number is needed.

**SECTION # \_\_\_\_ . Effective dates; .....**

..... This act takes effect on the day after publication, except as follows:  
( #1 ) ( ) ..... The treatment of sections ..... of the statutes takes effect on .....

1. In the component bar: For the budget action phrase, execute:..create → action: → \*NS: → 94XX  
For the text, execute: ... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9400 department code; and fill in "( )" only if a "frozen" number is needed.

**SECTION 94 5 0 . Effective dates; .....**

..... transportation. (CS)  
( #1 ) STATE TRAFFIC PATROL ADMINISTRATOR The treatment of sections 40.02(48)(b)4. of the statutes takes effect on January 1, 2000 ✓

READY ✓  
(end ins FFF)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

February 3, 1999

LRB-0797/1.dn  
PEN: ~~608-261-6926~~.lp

jig  
/ 2 dy

John Etzler:

This draft is reconciled with LRB-0797 which should not appear in the compiled bill.

5 X LRB-0797  
LRB-1494  
LRB- A

Paul E. Nilsen  
Legislative Attorney  
Phone: (608) 261-6926

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0797/2dn  
PEN:jlg:lp

February 3, 1999

John Etzler:

This draft reconciles LRB-0797 with LRB-1494/P2. LRB-1494 should not appear in the compiled bill.

Paul E. Nilsen  
Legislative Attorney  
Phone: (608) 261-6926



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-079712  
PEN:pgt&kmg:lp

MON NOON

13

DOA:.....Etzler - Administrator of the division of state patrol

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

Do not gen

- 1 AN ACT ...; relating to: the administrator of the division of state patrol in the
- 2 department of transportation.

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

Under current law, participants under the Wisconsin retirement system (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies members of the state patrol and various other individuals as protective occupation participants. Under WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill specifically classifies the administrator of the division of state patrol in the department of transportation (DOT) as a protective occupation participant for the purposes of WRS, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state.

Also under current law, the state traffic patrol consists of not more than 385 traffic officers in the classified service. Members of the state traffic patrol are charged with enforcing and assisting in the administration of state traffic laws and



*excluding the state patrol  
division administrator*

have the powers of a sheriff in enforcing those laws. This bill increases the authorized number of state patrol officers from 385 to 400.

The bill also makes the administrator of the division of state patrol a member of the state traffic patrol (charged with enforcing and assisting in the administration of state traffic laws and having the powers of a sheriff in enforcing those laws) and confers on the administrator the title of superintendent of the state traffic patrol, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. As a member of the state traffic patrol, the administrator is entitled to receive full pay and other benefits (including no reduction in sick leave credits, compensatory time for overtime accumulations or vacation) during any period in which the administrator is unable to work because of an injury sustained while performing certain duties that entail a considerable risk of injury or danger.

The bill does not put the administrator of the state traffic patrol in the classified service.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

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.** 40.02 (48) (am) of the statutes is amended to read:
- 2           40.02 (48) (am) "Protective occupation participant" includes any participant
- 3           whose name is certified to the fund as provided in s. 40.06 (1) (d) and (dm) and who
- 4           is a conservation warden, conservation patrol boat captain, conservation patrol boat
- 5           engineer, conservation pilot, conservation patrol officer, forest fire control assistant,
- 6           member of the state traffic patrol, state motor vehicle inspector, police officer, fire
- 7           fighter, sheriff, undersheriff, deputy sheriff, state probation and parole officer,
- 8           county traffic police officer, state forest ranger, fire watcher employed by the
- 9           Wisconsin veterans home, state correctional-psychiatric officer, excise tax
- 10          investigator employed by the department of revenue, special criminal investigation
- 11          agent in the department of justice, assistant or deputy fire marshal, or person
- 12          employed under s. 61.66 (1).

1           **SECTION 2.** 40.02 (48) (b) 4. of the statutes is created to read:

2           40.02 (48) (b) 4. A "member of the state traffic patrol" includes one division  
3 administrator in the department of transportation who is counted under s. 230.08  
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13 under s. 230.08 (2) (e) 12. and whose duties include supervising the state traffic  
14 patrol. Members of the state traffic patrol, and shall:

      \*\*\*\*NOTE: The treatment of this section by LRB-0797/1 is reconciled with  
      LRB-1494/P2, which should not appear in the compiled bill.

15           **SECTION 4.** 110.07 (6) of the statutes is created to read:

16           110.07 (6) The division administrator who is counted under s. 230.08 (2) (e) 12.  
17 and whose duties include supervising the state traffic patrol shall be designated  
18 superintendent of the state traffic patrol, if he or she is certified under s. 165.85 (4)  
19 (b) 1. as qualified to be a law enforcement officer.

20           **SECTION 9450. Effective dates; transportation.**

21           (1) STATE TRAFFIC PATROL ADMINISTRATOR. The treatment of section 40.02 (48) (b)  
22 4. of the statutes takes effect on January 1, 2000.

23           (END)

The division administrator may not be counted under this  
paragraph.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0797/3  
PEN:pgt&kmg:jf

DOA:.....Etzler – Administrator of the division of state patrol

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1     **AN ACT ...; relating to:** the administrator of the division of state patrol in the  
2     department of transportation.

---

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**OTHER TRANSPORTATION**

Under current law, participants under the Wisconsin retirement system (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies members of the state patrol and various other individuals as protective occupation participants. Under WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill specifically classifies the administrator of the division of state patrol in the department of transportation (DOT) as a protective occupation participant for the purposes of WRS, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state.

Also under current law, the state traffic patrol consists of not more than 385 traffic officers in the classified service. Members of the state traffic patrol are charged with enforcing and assisting in the administration of state traffic laws and

have the powers of a sheriff in enforcing those laws. This bill increases the authorized number of state patrol officers from 385 to 400, excluding the state patrol division administrator.

The bill also makes the administrator of the division of state patrol a member of the state traffic patrol (charged with enforcing and assisting in the administration of state traffic laws and having the powers of a sheriff in enforcing those laws) and confers on the administrator the title of superintendent of the state traffic patrol, if the division administrator is certified as qualified to be employed as a law enforcement officer in this state. As a member of the state traffic patrol, the administrator is entitled to receive full pay and other benefits (including no reduction in sick leave credits, compensatory time for overtime accumulations or vacation) during any period in which the administrator is unable to work because of an injury sustained while performing certain duties that entail a considerable risk of injury or danger.

The bill does not put the administrator of the state traffic patrol in the classified service.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* 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.** 40.02 (48) (am) of the statutes is amended to read:

2           40.02 (48) (am) "Protective occupation participant" includes any participant  
3 whose name is certified to the fund as provided in s. 40.06 (1) (d) and (dm) and who  
4 is a conservation warden, conservation patrol boat captain, conservation patrol boat  
5 engineer, conservation pilot, conservation patrol officer, forest fire control assistant,  
6 member of the state traffic patrol, state motor vehicle inspector, police officer, fire  
7 fighter, sheriff, undersheriff, deputy sheriff, state probation and parole officer,  
8 county traffic police officer, state forest ranger, fire watcher employed by the  
9 Wisconsin veterans home, state correctional-psychiatric officer, excise tax  
10 investigator employed by the department of revenue, special criminal investigation

1 agent in the department of justice, assistant or deputy fire marshal, or person  
2 employed under s. 61.66 (1).

3 **SECTION 2.** 40.02 (48) (b) 4. of the statutes is created to read:

4 40.02 (48) (b) 4. A “member of the state traffic patrol” includes one division  
5 administrator in the department of transportation who is counted under s. 230.08  
6 (2) (e) 12. and whose duties include supervising the state traffic patrol, if the division  
7 administrator is certified by the law enforcement standards board under s. 165.85  
8 (4) (b) 1. as being qualified to be a law enforcement officer.

9 **SECTION 3.** 110.07 (1) (a) (intro.) of the statutes is amended to read:

10 110.07 (1) (a) (intro.) The secretary shall employ not to exceed 385 more than  
11 400 traffic officers. ~~Such~~ The state traffic patrol consists of the traffic officers, in  
12 ~~addition to~~ the person designated to head them whose position shall be in the  
13 ~~classified service, shall constitute the~~ and, if certified under s. 165.85 (4) (b) 1. as  
14 qualified to be a law enforcement officer, the division administrator who is counted  
15 under s. 230.08 (2) (e) 12. and whose duties include supervising the state traffic  
16 patrol. The division administrator may not be counted under this paragraph.  
17 Members of the state traffic patrol, and shall:

\*\*\*NOTE: The treatment of this section by LRB-0797/1 is reconciled with  
LRB-1494/P2, which should not appear in the compiled bill.

18 **SECTION 4.** 110.07 (6) of the statutes is created to read:

19 110.07 (6) The division administrator who is counted under s. 230.08 (2) (e) 12.  
20 and whose duties include supervising the state traffic patrol shall be designated  
21 superintendent of the state traffic patrol, if he or she is certified under s. 165.85 (4)  
22 (b) 1. as qualified to be a law enforcement officer.

23 **SECTION 9450. Effective dates; transportation.**

