

# **Assembly Republican Majority Bill Summary**

## **AB 3: State Employee Caps**

Relating to: limitations on the filling of vacant positions in state government.

By Representatives Pettis, Suder, Van Roy, F. Lasee, Kerkman, Gielow, Jensen, Ladwig, Hines, Vrakas, Lothian, Freese, J. Wood, Musser and Seratti; cosponsored by Senator Reynolds.

**Date:** January 30, 2003

## **BACKGROUND**

Under current law, each agency in the executive branch must annually file a report with the Department of Administration regarding the number of positions in the agency that became vacant in the preceding fiscal year and providing expenditure estimates for those positions. This provision was included in 2001 WI Act 109 (the budget repair bill). Language that would have capped the number of positions that could be refilled to 80 percent of the total vacancies created during the previous fiscal year was vetoed by the governor.

## **SUMMARY OF AB 3 (AS AMENDED BY COMMITTEE)**

Assembly Bill 3 prohibits any state agency in the executive branch from filling more than 80 percent of the positions that become vacant during the fiscal year. A vacant position is one that remains unfilled for more than 90 consecutive days. The legislation also requires each agency to annually report to the Department of Administration the positions that could not be filled because of this prohibition, and DOA must abolish those positions and lapse any savings that result to the underlying funding source in the state treasury.

AB 3 exempts positions vacated by persons on military leave. Any agency that wishes to fill more than 80 percent of vacant positions may submit a written proposal to the Joint Committee on Finance. If the co-chairs do not notify the agency within 14 working days that a meeting has been scheduled to review the proposal, the agency may fill any or all of the positions as proposed. If the co-chairs do notify the agency within 14 days that a meeting has been scheduled to review the request, the agency can only fill those positions approved by the committee. Any positions filled under this exception are not included in the report submitted to DOA. Finally, the bill sunsets after two years.

## **AMENDMENTS**

**Assembly Substitute Amendment 1** to Assembly Bill 3 allows any agency that wants to fill more than 80 percent of the vacancies created during a given fiscal year to appeal to the Joint Committee on Finance for relief. If the co-chairs do not notify the agency within 14 working days that a meeting has been scheduled to review the proposal, the agency may fill any or all of the positions as specified in the agency's written request. If the co-chairs do notify the agency within 14 days that a meeting has been scheduled, the agency may fill those positions only with the approval of the committee. Any positions that an agency fills under this exemption shall not be included the report the agency must submit to DOA. ASA 1 exempts positions held by persons on military leave. Finally, ASA 1 repeals the state hiring cap on December 31, 2005 [adopted 7-1-0 (Rep. Miller voted no)].

**Assembly Amendment 1 to Assembly Substitute Amendment 1** makes only those positions that have been vacant for more than 90 days subject to the prohibition [adopted 7-1-0 (Rep. Grothman voted no)].

### FISCAL EFFECT

A fiscal estimate prepared by the Department of Administration indicates that AB 3 will decrease state spending by approximately \$915,400. This amount is based on the agency's seven percent vacancy rate during the calendar year 2002.

A fiscal estimate prepared by the Legislative Fiscal Bureau indicates that AB 3 could decrease state spending by \$72.7 million through salary and fringe benefit savings. If positions are vacated in proportion to their funding sources in relation to the entire state payroll, \$33.4 million in savings would come from GPR funds, \$24.5 million from PR funds, \$9.1 million from FED funds and \$5.7 million from SEG funds.

**PLEASE NOTE:** Since vacancy patterns differ from year to year and agency to agency and some position reductions have already been made to trim agency operating budgets, it is unknown whether this level of savings actually could be achieved.

### PROS

1. This bill helps address the budget deficit by trimming personnel costs.
2. This legislation cuts vacant positions as opposed to laying off persons presently employed by the state.
3. As amended, Assembly Bill 3 allows agencies to appeal to the Joint Committee on Finance for relief from the employee cap in order to fill essential positions.
4. Assembly Bill 3 provides a mechanism to evaluate the need to fill vacant positions.

### CONS

1. This legislation could negatively impact the ability of agencies to fulfill their responsibilities.
2. The bill does not distinguish between various funding sources for positions. For example, some positions are funded by federal dollars, and the resulting savings cannot be used to fill other gaps in the budget.
3. The proposal may unnecessarily hinder agencies from filling positions essential to preserving public safety, safeguarding the state from litigation or meeting outside funding requirements.

### SUPPORTERS

Rep. Mark Pettis, author; and Sen. Tom Reynolds, lead co-sponsor.

### OPPOSITION

Margaret Lewis, UW System; Sandy Drew, State of WI Investment Board; and Brent McCown, PROFS, Inc. (UW-Madison faculty).

### **HISTORY**

Assembly Bill 3 was introduced on January 22, 2003, and referred to the Assembly Committee on Budget Review. A public hearing was held on January 22, 2003. On January 28, 2003, the Committee voted 7-1 [Rep. Miller voted no] to recommend passage of AB 3 as amended.

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