



2009 ASSEMBLY BILL 551

November 5, 2009 – Introduced by Representatives ROYS, MASON, BARCA, BERNARD SCHABER, BERCEAU, BLACK, CLARK, DEXTER, GARTHWAITE, HEBL, HILGENBERG, HIXSON, PARISI, PASCH, POPE-ROBERTS, RICHARDS, SINICKI, STEINBRINK, TOLES, TURNER, VAN AKKEREN, VRUWINK, YOUNG, ZIGMUNT and VAN ROY, cosponsored by Senators RISSER, LASSA, HOPPER, PLALE, WIRCH and TAYLOR. Referred to Committee on Labor.

- 1 **AN ACT relating to:** furlough of executive branch state employees during the
2 2009–11 fiscal biennium and making an appropriation.

Analysis by the Legislative Reference Bureau

On June 23, 2009, Governor Doyle issued Executive Order 285, relating to furloughing state employees in response to the emergency economic situation facing Wisconsin. Under the order, employees of executive branch state agencies, including the University of Wisconsin System, are required to take eight days or their hourly equivalent (64 hours) of unpaid leave during each fiscal year of the 2009–11 fiscal biennium. The biennial budget act, 2009 Wisconsin Act 28, reduced state agency appropriations accordingly to reflect compensation savings from the furloughs.

This bill exempts certain state employees from the requirement to take unpaid leaves of absence during the 2009–11 fiscal biennium. Under the bill, with exceptions, none of the following executive branch employees are required to serve an unpaid leave of absence: an executive branch employee whose compensation is paid from federal revenues or an appropriation of gifts and grants, and an executive branch employee whose duties, while that employee is on an unpaid leave of absence, would be performed by an employee receiving overtime pay.

In addition, the bill creates a procedure whereby executive branch state agencies may exempt an employee from the leave of absence requirement if the employee, while performing his or her duties on an annual basis, generates revenues that exceed his or her annual salary and fringe benefits costs. Using this procedure, the state agency must submit a request to the Joint Committee on Finance (JCF). At its next regularly scheduled meeting, JCF must approve, modify, or disapprove

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the request. If JCF exempts a state employee from the unpaid leave of absence requirement, the appropriation that is used to pay salary and fringe benefit costs for the employee's position is supplemented to cover any additional salary and fringe benefit costs for the position resulting from the employee's not taking an unpaid leave of absence.

The bill permits a state agency to delay implementation of the mandatory and permissive exemptions from an unpaid leave of absence to July 1, 2010, by notifying the cochairpersons of JCF, in writing, before its next regularly scheduled meeting after the bill's effective date.

Finally, the bill provides that during the 2009–11 fiscal biennium a state agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal biennium for the performance of services of executive branch employees who would have performed the services had they not have been required to serve an unpaid leave of absence.

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. Nonstatutory provisions.**

2 (1) EXECUTIVE BRANCH EMPLOYEES AND UNPAID LEAVES OF ABSENCE DURING THE
3 2009–11 FISCAL BIENNIUM.

4 (a) *Definitions.*

5 1. “Executive branch employee” means a state employee employed by a state
6 agency.

7 2. “Federal revenues” has the meaning given in section 20.001 (2) (e) of the
8 statutes.

9 3. “Revenues” means all revenue types specified in section 20.001 (2) of the
10 statutes.

11 4. “State agency” has the meaning given in section 20.001 (1) of the statutes,
12 but does not include the legislature and the courts.

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1 5. “Unpaid leave of absence” means an unpaid leave of absence required under
2 Executive Order 285.

3 (b) *Mandatory exemption from unpaid leave of absence.* Beginning on the
4 effective date of this paragraph, or on July 1, 2010, if a state agency elects under
5 paragraph (e), none of the following executive branch employees may be required to
6 serve an unpaid leave of absence:

7 1. An executive branch employee whose compensation is paid from federal
8 revenues or an appropriation of gifts and grants. If such an employee’s compensation
9 is partly paid from another revenue source, the employee must serve an unpaid leave
10 of absence in proportion to the funding of his or her compensation from that revenue
11 source.

12 2. An executive branch employee whose duties, while that employee is on an
13 unpaid leave of absence, would be performed by an employee receiving overtime pay,
14 as determined by the state agency that employs the employee.

15 (c) *Permissive exemption from unpaid leave of absence.*

16 1. Beginning on the effective date of this paragraph, or on July 1, 2010, if a state
17 agency elects under paragraph (e), if a state agency determines that an executive
18 branch employee, while performing his or her duties on an annual basis, generates
19 revenues that exceed his or her annual salary and fringe benefits costs, the state
20 agency may submit a request to the joint committee on finance to exempt the
21 employee from an unpaid leave of absence. A request submitted under this
22 subdivision may be for one employee or a class of employees.

23 2. A request submitted by a state agency under subdivision 1. shall include
24 information documenting the revenues generated by the executive branch employee
25 and the employee’s annual salary and fringe benefits costs.

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1 3. At the next regularly scheduled meeting of the joint committee of finance
2 under section 13.10 of the statutes, the joint committee on finance shall approve,
3 modify, or disapprove the request.

4 4. If an executive branch employee is exempted from an unpaid leave of absence
5 under subdivision 3., the appropriation that is used to pay salary and fringe benefit
6 costs for the employee's position is supplemented from the underlying fund or
7 appropriation account, whichever is appropriate, to cover any additional salary and
8 fringe benefit costs for the position resulting from the employee's not taking an
9 unpaid leave of absence.

10 5. For the 2009–11 fiscal biennium, each state agency whose requests are
11 approved under subdivision 3. shall submit a quarterly report to the joint committee
12 on finance documenting the revenues generated by the executive branch employee
13 during the preceding quarter.

14 (d) *Limitations on contractual services contracts.* During the 2009–11 fiscal
15 biennium, a state agency may not enter into, renew, or extend any contractual
16 services contracts with private contractors or consultants for the remainder of that
17 fiscal biennium for the performance of services of executive branch employees who
18 would have performed the services had they not have been required to serve an
19 unpaid leave of absence.

20 (e) *Implementation date of exemptions from unpaid of absence.* A state agency
21 may elect to delay the implementation of paragraphs (b) and (c) until July 1, 2010.
22 If a state agency so elects, the state agency must notify the cochairpersons of the joint
23 committee on finance, in writing, of this election. The notification must be made

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1 before the next regularly scheduled meeting of the joint committee on finance under
2 section 13.10 of the statutes that occurs after the effective date of this paragraph.

3 (END)