



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1383/1  
CMH/RAC/TJD:all:all

Stayed  
"1"

2011 BILL

Only change  
on Page 128

1 AN ACT relating to: state finances, collective bargaining for public employees,  
2 compensation and fringe benefits of public employees, the state civil service  
3 system, the Medical Assistance program, sale of certain facilities, granting  
4 bonding authority, and making an appropriation.

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*Analysis by the Legislative Reference Bureau*

**COLLECTIVE BARGAINING**

Under current law, municipal employees have the right to collectively bargain over wages, hours, and conditions of employment under the Municipal Employment Relations Act (MERA), and state employees have the right to collectively bargain over wages, hours, and conditions of employment under the State Employment Labor Relations Act (SELRA). This bill changes MERA and SELRA with respect to all employees except employees who are certain protective occupation participants under the Wisconsin Retirement System or under a county or city retirement system (public safety employees). This bill limits the right to collectively bargain for all employees who are not public safety employees (general employees) to the subject of base wages. In addition, unless a referendum authorizes a greater increase, any general employee who is part of a collective bargaining unit is limited to bargaining over a percentage of total base wages increase that is no greater than the percentage change in the consumer price index. This bill also prohibits municipal employers from collectively bargaining with municipal general employees in matters that are not permitted under MERA.

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Under SELRA and MERA, a collective bargaining unit elects a labor organization as its representative once a majority of the employees in that collective bargaining unit who are actually voting votes for that labor organization; that labor organization remains the representative unless a percentage of members of the collective bargaining unit supports a petition for a new election and subsequently votes to decertify the representative. This bill requires an annual certification election of the labor organization that represents each collective bargaining unit containing general employees. If, at the election, less than 51 percent of the actual employees in the collective bargaining unit vote for a representative, then, at the expiration of the current collective bargaining agreement, the current representative is decertified and the members of the collective bargaining unit are nonrepresented and may not be represented for one year. This bill requires an initial certification election for all represented state and municipal general employees in April 2011.

Currently, except for an initial collective bargaining agreement, the terms of collective bargaining agreements are generally two years for state and municipal employees, and current law does not prohibit collective bargaining agreements from being extended. This bill limits the term for general employees to one year and prohibits the extension of collective bargaining agreements.

Current law provides that state and municipal employees who are represented by a labor organization have the organization dues deducted from their salaries. Except for salary deductions for public safety employees, this bill prohibits the salary deductions for labor organization dues. This bill also allows a general employee to refrain from paying dues and remain a member of a collective bargaining unit.

Under current law, University of Wisconsin (UW) System employees, employees of the UW Hospitals and Clinics Authority, and certain home care and child care providers have the right to collectively bargain over wages, hours, and conditions of employment. This bill eliminates the rights of these employees to collectively bargain.

**PUBLIC SECTOR RETIREMENT SYSTEMS**

Currently, employer and employee required contributions, and the earnings on these contributions, fund the cost of providing retirement annuities to all public employees who are covered under the Wisconsin Retirement System (WRS). Employer required and employee required contribution rates are set on an annual basis. This bill provides that the employee required contribution rate for general participating employees and for elected and executive participating employees must equal one-half of all actuarially required contributions, as determined by the Employee Trust Funds Board. For protective occupation employees, the bill provides that the employee required contribution rate must equal the percentage of earnings paid by general participating employees.

Current law also requires the employer to pay all of the employer required contributions, but permits the employer to also pay all or part of the employee required contributions. This bill provides that an employer may not pay any of the employee required contributions under the WRS or under an employee retirement system of a first class city or a county having a population of 500,000 or more.

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Currently, when a WRS participant terminates employment and becomes eligible for a retirement annuity, assuming the participant does not receive a money purchase annuity, the amount of the annuity is determined by multiplying the participant's final average earnings by the participant's years of creditable service and by a percentage multiplier. For a protective occupation participant, the multiplier is either 2 percent or 2.5 percent, depending on whether the person is covered by social security. For elected officials and executive participating employees, the multiplier is 2 percent. For all other participants in the WRS, the multiplier is 1.6 percent. This bill decreases the multiplier for elected officials and executive participating employees from 2 percent to 1.6 percent for creditable service that is performed on or after the bill's effective date.

Under current law, state employees become participating employees in the WRS if they are expected to work at least one-third of what is considered full-time employment by the Department of Employee Trust Funds (DETF) and have an expected duration of employment of one year or more. If a state employee becomes a WRS participating employee, the employee is also entitled to receive health insurance under the Group Insurance Board (GIB) program. A current group of state employees are appointed to state positions as limited term appointments in the state civil service, which are provisional appointments or appointments for less than 1,044 hours per year. This bill prohibits limited term appointments from participating in the WRS, as well as prohibits these employees from receiving health insurance under the GIB program.

This bill also requires the secretary of administration, the director of the Office of State Employee Relations (OSER), and the secretary of employee trust funds to study the WRS. The study must specifically address establishing a defined contribution plan as an option for WRS participating employees; establishing different vesting periods for employer contributions and eligibility for WRS retirement benefits; modifying the supplemental health insurance premium credit program for state employees; and permitting participating employees to not make employee required contributions under the WRS and limiting retirement benefits for these employees to a money purchase annuity. Under the bill, no later than June 30, 2012, the secretary of administration, the director of OSER, and the secretary of employee trust funds must report their findings and recommendations to the governor.

**PUBLIC SECTOR GROUP INSURANCE**

Currently, state employees, as well as employees of public authorities created by the state, receive health care coverage under plans offered by GIB, which plans are assigned to one of three tiers depending on the employee's premium costs. The employer share of premium costs for employees who work more than 1,565 hours a year is an amount not less than 80 percent of the average premium costs under the various health care coverage plans. The amount for represented employees is subject to collective bargaining and the amount for nonrepresented employees is established in various compensation plans.

This bill provides that the employer may not pay more than 88 percent of the average premium cost of plans offered in the tier with the lowest employee premium

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cost. For employees who work less than 1,566 hours a year, with exceptions, the employer must pay an amount determined by the director of OSER. Under the bill, the actual employer and employee share of premium costs is established on an annual basis by the director of OSER.

For the remainder of 2011, however, beginning in April 2011, the bill provides that state employees, as well as employees of public authorities created by the state, who work more than 1,565 hours a year shall pay \$84 a month for individual coverage and \$208 a month for family coverage for health care coverage under any plan offered in the tier with the lowest employee premium cost; \$122 a month for individual coverage and \$307 a month for family coverage for health care coverage under any plan offered in the tier with the next lowest employee premium cost; and \$226 a month for individual coverage and \$567 a month for family coverage for health care coverage under any plan offered in the tier with the highest employee premium cost. UW System graduate assistants and teaching assistants must pay half of these amounts. Employees who work less than 1,566 hours a year are required to pay the same amount for health care coverage during 2011 that they were required to pay before the bill's effective date.

The bill further provides that a local government employer who participates in the local government health insurance plan offered by GIB may not participate in the plan if it intends to pay more than 88 percent of the average premium cost of plans offered in any tier with the lowest employee premium cost.

This bill requires the director of OSER and the secretary of employee trust funds to study the feasibility of offering to employees eligible to receive health care coverage under the GIB plans, beginning on January 1, 2013, the option of receiving health care coverage through either a low-cost health care coverage plan or through a high-deductible health plan and the establishment of a health savings account, as described under federal law. The study must also examine the feasibility of requiring state employees to receive health care coverage through a health benefits exchange established pursuant to the federal law and creating a health care insurance purchasing pool for all public employees and individuals receiving health care coverage under the Medical Assistance program. No later than June 30, 2012, the director and secretary shall report their findings and recommendations to the governor.

Current law also provides that GIB may not enter into agreements to modify or expand group insurance coverage in a manner that conflicts with applicable statutes, or DETF rules, or that materially affects the level of premiums required to be paid by the state or its employees or the level of benefits provided under any group insurance coverage. This bill provides that this restriction does not prevent GIB from encouraging participation in wellness or disease management programs under any of its group insurance coverage plans. In addition, the bill provides that this prohibition does not apply to GIB agreements relating to group insurance coverage for the 2012 and 2013 calendar years.

This bill requires GIB to design health care coverage plans for the 2012 calendar year that, after adjusting for any inflationary increase in health benefit costs, reduces the average premium cost of plans offered in the tier with the lowest

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employee premium cost by at least 5 percent from the cost of such plans offered during the 2011 calendar year. GIB must include copayments in the health care coverage plans for the 2012 calendar year and may require health risk assessments for state employees and participation in wellness or disease management programs.

This bill requires the secretary of employee trust funds to allocate \$28,000,000, from reserve accounts established in the public employee trust fund for group health and pharmacy benefits for state employees, to reduce employer costs for providing group health insurance for state employees for the period beginning on July 1, 2011, and ending on December 31, 2011.

Current law permits GIB to contract with the Department of Health Services (DHS) and other public or private entities for data collection and analysis services related to health maintenance organizations and insurance companies that provide health insurance to state employees. This bill permits GIB to contract for any other consulting services related to plans it offers.

Currently, the attorney general, or his or her designee, serves on GIB. This bill requires that the attorney general designee on GIB must be an attorney.

This bill provides that if DETF determines that an audit of its employee benefit programs is necessary during the 2011-12 fiscal year, for the purpose of verifying the eligibility of dependents covered under the programs, DETF must submit a written request to the secretary of administration to expend an amount not exceeding \$700,000 to conduct the audit.

**STATE GOVERNMENT****STATE CIVIL SERVICE SYSTEM**

Under current law, the governor may declare a state of emergency if he or she determines that an emergency exists resulting from a disaster or the imminent threat of a disaster. This bill authorizes a state agency to discharge any state employee who fails to report to work as scheduled for any three unexcused working days during a state of emergency or who participates in a strike, work stoppage, sit-down, stay-in, slowdown, or other concerted activities to interrupt the operations or services of state government, including specifically purported mass resignations or sick calls. Under the bill, engaging in any of these actions constitutes just cause for discharge.

Currently, the director of OSER has promulgated rules to establish a career executive program. The program provides state agencies with highly qualified executive candidates, provides outstanding administrative employees a broad opportunity for career advancement, and provides for the mobility of such employees among state agencies for the most advantageous use of their managerial and administrative skills. Under current administrative rules, an appointing authority may reassign a career executive employee from one career executive position to another career executive position within the same state agency. This bill permits an appointing authority to reassign an employee in a career executive position to a career executive position in any state agency if the appointing authority in the state agency to which the employee is to be reassigned approves of the reassignment.

This bill increases the number of unclassified division administrators by 35 FTE positions, decreases 36 FTE positions in executive branch agencies, which

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positions are to be determined by the secretary of administration, expands the definition of "division administrator" to include other managerial positions, and permits the director of OSER to appoint either a deputy director or an executive assistant in the unclassified service.

**STATE FINANCE**

This bill increases the amount of state public debt that may be contracted to refund any unpaid indebtedness used to finance tax-supported or self-amortizing facilities from \$309,000,000 to \$474,000,000. Such refunded debt must be contracted before July 1, 2011.

This bill reduces executive branch agency lapses and transfers to the general fund for the 2009-11 fiscal biennium that were required under 2007 Wisconsin Act 20 from \$200,000,000 to \$121,000,000, as well as reduces the expenditure authority of the Joint Committee on Finance (JCF) during the 2010-11 fiscal year by \$4,590,400 from its general purpose revenue supplemental appropriation.

This bill requires the secretary of administration, before July 1, 2011, to lapse to the general fund, from executive branch appropriations, an amount equal to \$27,891,400; requires the cochairpersons of the Joint Committee on Legislative Organization to lapse to the general fund, from appropriations to the legislature, an amount equal to \$717,700; requires the governor to lapse to the general fund, from appropriations to the office of the governor, an amount equal to \$37,500; and requires the chief justice of the supreme court to lapse to the general fund, from appropriations to the judicial branch, an amount equal to \$1,153,400. The lapses seek to capture employer savings resulting from increases in state employee payments for health insurance and retirement contributions.

**OTHER STATE GOVERNMENT**

Currently, this state owns and operates numerous heating, cooling, and power plants that were constructed by the state to provide heating, cooling, and power to state facilities. The Department of Administration (DOA) determines the method of operation of these plants and may delegate this authority to any other state agency that has managing authority for a plant. This bill permits DOA to sell or contract for the operation of any such plant. The bill exempts such sales and contracts from the requirement for approval of the Public Service Commission (PSC) that may otherwise apply under current law. The bill provides that the net proceeds of any sale, after retirement of any outstanding state debt and any necessary repayment of federal financial assistance, is deposited in the budget stabilization fund. The bill also allows DOA, at any time, to petition the PSC to regulate as a public utility any person who purchases or contracts for the operation of any plant under the bill. Under current law, the PSC has regulatory authority over public utilities, including the authority to set rates for utility service.

**HEALTH AND HUMAN SERVICES****MEDICAL ASSISTANCE**

Under current law, DHS administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through

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programs that operate under a waiver of federal laws related to medical assistance (MA waiver programs). This bill requires DHS to study potential changes to the MA state plan and to waivers of federal law relating to medical assistance for certain purposes, including increasing the cost effectiveness and efficiency of care for the MA program and MA waiver programs and improving the health status of individuals who receive benefits under the MA program or an MA waiver program. If DHS determines, as a result of the study, that revision of existing statutes or rules would be necessary to advance any of the purposes for which the study was conducted, DHS may promulgate rules to implement certain changes, including making certain requirements, modifying benefits, revising provider reimbursement models, developing standards and methodologies for eligibility, and reducing income levels for purposes of determining eligibility. Before promulgating a rule, DHS must submit the proposed rule and any plan developed as a result of the study to JCF for review. DHS must submit an amendment to the state MA plan or request a waiver of federal laws related to medical assistance, if necessary, to the extent necessary to implement any proposal. If the federal Department of Health and Human Services does not allow the amendment or does not grant the waiver, DHS may not put the rule into effect or implement the proposal. To reduce the eligibility income levels to a certain amount, DHS must request a waiver from the secretary of the federal Department of Health and Human Services to permit DHS to have in effect eligibility standards, methodologies, and procedures that are more restrictive than those in place on March 23, 2010. If DHS does not receive approval for the waiver, DHS must reduce the eligibility income levels for MA programs and MA waiver programs to 133 percent of the federal poverty line for adults who are not pregnant and not disabled, as allowed under federal law. DHS may promulgate the rules as emergency rules.

**OTHER HEALTH AND HUMAN SERVICES**

This bill eliminates the UW Hospitals and Clinics Board, a state agency assigned the single duty to enter into a contractual services agreement with the UW Hospitals and Clinics Authority to provide the services of state employees who are in clerical, blue collar and nonbuilding trades, building trades crafts, security and public safety, and technical collective bargaining units. The bill also transfers all employees of the UW Hospitals and Clinics Board to the UW Hospitals and Clinics Authority.

**PUBLIC ASSISTANCE**

Reflecting the receipt of emergency contingency funds under the Temporary Assistance for Needy Families (TANF) block grant program, this bill increases by \$37,000,000 the amount of TANF moneys allocated for the earned income tax credit.

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.

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For further information see the *state and local* 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.** 7.33 (1) (c) of the statutes is amended to read:

2           7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and  
3 includes an authority created under subch. II of ch. 114 or ch. 52, 231, 232, 233, 234,  
4 or 237.

5           **SECTION 2.** 7.33 (4) of the statutes is amended to read:

6           7.33 (4) Except as otherwise provided in this subsection, each local  
7 governmental unit, as defined in s. 16.97 (7), may, and each state agency shall, upon  
8 proper application under sub. (3), permit each of its employees to serve as an election  
9 official under s. 7.30 without loss of fringe benefits or seniority privileges earned for  
10 scheduled working hours during the period specified in sub. (3), without loss of pay  
11 for scheduled working hours during the period specified in sub. (3) except as provided  
12 in sub. (5), and without any other penalty. For employees who are included in a  
13 collective bargaining unit for which a representative is recognized or certified under  
14 subch. V ~~or VI~~ of ch. 111, this subsection shall apply unless otherwise provided in a  
15 collective bargaining agreement.

16           **SECTION 3.** 13.111 (2) of the statutes is amended to read:

17           13.111 (2) DUTIES. The joint committee on employment relations shall perform  
18 the functions assigned to it under ~~subchs. subch. V and VI~~ of ch. 111, subch. II of ch.  
19 230 and ss. 16.53 (1) (d) 1., 20.916, 20.917, and 20.923 ~~and 40.05 (1) (b).~~

20           **SECTION 4.** 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act ....  
21 (January 2011 Special Session Senate Bill 6), is amended to read:



**BILL****SECTION 9132**

1           1. "General municipal employee" has the meaning given in section 111.70 (1)  
2 (fm) of the statutes, as created by this act.

3           2. "School district employee" has the meaning given in section 111.70 (1) (ne)  
4 of the statutes.

5           (b) Each collective bargaining unit under subchapter IV of chapter 111 of the  
6 statutes, as affected by this act, containing general municipal employees shall vote  
7 to certify or decertify their representatives as provided in section 111.70 (4) (d) 3. b.  
8 of the statutes, as created by this act. Notwithstanding the date provided under  
9 section 111.70 (4) (d) 3. b. of the statutes, as created by this act, the vote shall be held  
10 in April 2011.

*if the collective bargaining  
agreement is  
terminated before  
April 2011,  
30,*

11           **SECTION 9135. Nonstatutory provisions; Natural Resources.**

12           (1) POSITION INCREASES AND DECREASES.

13           (a) The authorized FTE positions for the department of natural resources are  
14 decreased by 1.0 SEG position, funded from the appropriation under section 20.370  
15 (1) (mu) of the statutes, for the purpose for which the appropriation is made. The  
16 secretary of administration shall identify the position.

17           (b) The authorized FTE positions for the department of natural resources are  
18 decreased by 2.0 SEG positions, funded from the appropriation under section 20.370  
19 (8) (mu) of the statutes, for the purpose for which the appropriation is made. The  
20 secretary of administration shall identify the positions.

21           (c) The authorized FTE positions for the department of natural resources are  
22 increased by 1.0 SEG position, funded from the appropriation under section 20.370  
23 (1) (mu) of the statutes, to provide for an unclassified division administrator.

24           (d) The authorized FTE positions for the department of natural resources are  
25 increased by 2.0 SEG positions, funded from the appropriation under section 20.370

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1 agreement under subchapter I or VI of chapter 111 of the statutes that contains  
2 provisions inconsistent with those sections on the day on which the agreement  
3 expires or is terminated, extended, modified, or renewed, whichever occurs first.

4 (END)