



2013 SENATE BILL 224

July 9, 2013 – Introduced by JOINT COMMITTEE ON EMPLOYMENT RELATIONS. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to amend* 230.28 (4), 230.34 (1) (a), 230.34 (1) (ar), 230.35 (1) (a) (intro.),
2 230.35 (1) (b), 230.35 (1m) (bt) (intro.), 230.35 (1m) (f), 230.35 (4) (b), 230.35 (4)
3 (c), 230.35 (4) (d) (intro.), 230.35 (4) (d) 1. and 230.44 (1) (c); **to repeal and**
4 **recreate** 230.26 (1m); and **to create** 230.35 (1p) (intro.) and 230.35 (3) (am) of
5 the statutes; **relating to:** the state civil service.

Analysis by the Legislative Reference Bureau

This bill makes the following changes to the state civil service system:

1. Currently, an appointing authority may not appoint a person who is not a resident of this state to a limited term appointment, unless the administrator of the Division of Merit Recruitment and Selection waives the prohibition for the reason that the appointed person's permanent work site is located outside this state. The bill allows the administrator to waive the nonresidency prohibition in any circumstance.

2. The bill provides that an employee who has not obtained permanent status in class in a supervisory or management position and who is appointed to another supervisory or management position may be required to serve a probationary period.

3. Currently, assistant district attorneys who have served with the state for a continuous period of 12 months or more may only be removed, suspended without pay, discharged, reduced in base pay, or demoted for just cause. This bill grants assistant state public defenders the same rights.

4. The bill specifically provides that statutory provisions relating to annual, termination, and accumulated sabbatical leave, as well as paid holiday leave, are

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subject to the leave provision of the state compensation plan. Current law provides, generally, that the state compensation plan may include provisions relating to pay, benefits, and working conditions that supersede the provisions of the civil service and other applicable statutes and rules promulgated by the director of the Office of State Employment Relations and the administrator.

5. Generally, no state employee may take annual leave until he or she has completed the first six months of a probationary period for an original appointment. The bill provides that this prohibition does not apply to an employee who uses annual leave that he or she accrued while serving in an unclassified civil service position.

6. The bill provides that career executive employees and other management employees in the state civil service are entitled to all continuous service leave if they leave those positions and are subsequently reemployed in career executive and other management positions, regardless of the duration of their leave of absence.

7. The bill provides that officials and employees of the state who have permanent status in class and who are members of the national guard, state defense force, or a reserve component of the United States armed forces and who are on military leave without pay for authorized inactive duty training or active duty for training, shall, upon reemployment immediately after such military training, receive credit for annual leave, sick leave, and legal holidays as if they had remained continuously employed by the state.

8. The bill provides that if an employee is terminated, personal holidays are prorated for the calendar year in which the termination occurs and personal holidays earned in a previous calendar year are not prorated or repaid.

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.** 230.26 (1m) of the statutes is repealed and recreated to read:

2 **230.26 (1m)** An appointing authority may not appoint a person who is not a
3 state resident to a limited term appointment unless approved by the administrator.

4 **SECTION 2.** 230.28 (4) of the statutes is amended to read:

5 **230.28 (4)** A person reinstated in an employing unit other than one in which
6 the person previously served in permanent status in the class in which the person
7 is being reinstated, ~~or~~ an employee who transfers from one employing unit to another
8 ~~or~~, an employee who moves to a different employing unit in conjunction with a

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1 voluntary demotion, and a person who had not obtained permanent status in class
2 in a supervisory or management position prior to appointment to another
3 supervisory or management position, may be required by the appointing authority
4 to serve a probationary period. Provisions for the duration of such probationary
5 period shall be provided in the rules of the administrator.

6 **SECTION 3.** 230.34 (1) (a) of the statutes is amended to read:

7 230.34 (1) (a) An employee with permanent status in class or an employee who
8 has served with the state as an assistant district attorney or an assistant state public
9 defender for a continuous period of 12 months or more may be removed, suspended
10 without pay, discharged, reduced in base pay or demoted only for just cause.

11 **SECTION 4.** 230.34 (1) (ar) of the statutes, as affected by 2011 Wisconsin Acts
12 10 and 32, is amended to read:

13 230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent
14 status in class in the classified service and all employees who have served with the
15 state as an assistant district attorney or an assistant state public defender for a
16 continuous period of 12 months or more (~~ar~~).

17 **SECTION 5.** 230.35 (1) (a) (intro.) of the statutes is amended to read:

18 230.35 (1) (a) (intro.) Except as provided in subs. (1m), (1r), and (1s) and the
19 compensation plan under s. 230.12, appointing authorities shall grant to each person
20 in their employ, except employees excluded from coverage under this subsection by
21 the department by rule and limited-term employees, based on accumulated
22 continuous state service, annual leave of absence without loss of pay at the rate of:

23 **SECTION 6.** 230.35 (1) (b) of the statutes is amended to read:

24 230.35 (1) (b) An employee, with the approval of his or her appointing
25 authority, may anticipate the annual leave which he or she could earn during the

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1 current calendar year, except that no employee shall be eligible to take annual leave
2 until he or she has completed the first 6 months of a probationary period for an
3 original appointment unless the employee uses annual leave that he or she accrued
4 while serving in an unclassified position.

5 **SECTION 7.** 230.35 (1m) (bt) (intro.) of the statutes is amended to read:

6 230.35 (1m) (bt) (intro.) An Except as otherwise provided in the compensation
7 plan under s. 230.12, an employee who is not subject to the minimum wage and
8 overtime requirements under the federal Fair Labor Standards Act, 29 USC 201 to
9 219, shall be entitled to annual leave of absence without loss of pay based upon
10 accumulated continuous state service at the rate of:

11 **SECTION 8.** 230.35 (1m) (f) of the statutes is amended to read:

12 230.35 (1m) (f) The continuous service of an employee eligible for annual leave
13 under this subsection shall not be considered interrupted if the employee was on an
14 approved leave of absence to participate in providing specialized disaster relief
15 services or if the employee leaves the service and is reemployed by the state in
16 another position covered under this subsection. ~~If reemployed in a position not~~
17 ~~covered under this subsection the employee shall be required to meet the continuous~~
18 ~~service requirements of sub. (1) (g).~~ This paragraph applies to all persons who are
19 ~~employees covered under this subsection on or after July 1, 1973.~~ Employees
20 appointed to career executive positions under s. 230.24 or positions designated in s.
21 19.42 (10) (L) or 20.923 (4), (7), (8), or (9) or authorized under s. 230.08 (2) (e) are not
22 subject to the continuous service requirements under sub. (1) (g) if they are
23 reemployed in any of those positions, regardless of the duration of their absence. If
24 the employees are reemployed in a position other than a career executive position or
25 a position designated in s. 19.42 (10) (L) or 20.923 (4), (7), (8), or (9) or authorized

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1 under s. 230.08 (2) (e), continuous service shall be established in accordance with
2 rules of the director.

3 **SECTION 9.** 230.35 (1p) (intro.) of the statutes is created to read:

4 230.35 (1p) (intro.) Except as otherwise provided in the compensation plan
5 under s. 230.12:

6 **SECTION 10.** 230.35 (3) (am) of the statutes is created to read:

7 230.35 (3) (am) Officials and employees of the state who have permanent status
8 in class and who are members of the national guard, state defense force, or a reserve
9 component of the United States armed forces and who are on military leave without
10 pay for authorized inactive duty training or active duty for training, shall, upon
11 reemployment immediately after such military training, receive credit for annual
12 leave, sick leave, and legal holidays as if they had remained continuously employed
13 by the state.

14 **SECTION 11.** 230.35 (4) (b) of the statutes is amended to read:

15 230.35 (4) (b) ~~Compensatory~~ Except as otherwise provided in the compensation
16 plan under s. 230.12, compensatory time off or payment, either of which shall be at
17 the rate of time and one-half, shall be granted to state employees for all work
18 performed on the holidays enumerated in par. (a) 1. to 9.

19 **SECTION 12.** 230.35 (4) (c) of the statutes is amended to read:

20 230.35 (4) (c) ~~All~~ Except as provided in the compensation plan under s. 230.12,
21 all employees except limited term employees shall receive 9 paid holidays annually
22 in addition to any other authorized paid leave, the time to be at the discretion of the
23 appointing authorities.

24 **SECTION 13.** 230.35 (4) (d) (intro.) of the statutes is amended to read:

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1 230.35 (4) (d) (intro.) In addition to the holidays granted under par. (c) and
2 except as provided in the compensation plan under s. 230.12, all employees except
3 limited term employees shall earn 3.5 paid personal holidays each calendar year,
4 plus one additional paid personal holiday each calendar year in recognition of
5 Veterans Day. Eligibility to take the personal holidays during the year earned is
6 subject to the following:

7 **SECTION 14.** 230.35 (4) (d) 1. of the statutes is amended to read:

8 230.35 (4) (d) 1. Employees serving the first 6 months of a probationary period
9 for an original appointment or as a trainee may anticipate the personal holidays
10 earned during each year and be eligible to take the personal holidays during the
11 probationary period, subject to subsequent completion of the first 6 months of the
12 probationary period and also subject to subd. 3. If an employee does not complete the
13 first 6 months of probationary service due to resignation, any holiday time taken
14 under this paragraph shall then be considered approved leave without pay, and the
15 agency shall recover from the employee the value of such time. If an employee is
16 terminated, personal holidays shall be prorated for the calendar year in which the
17 termination occurs and personal holidays earned in a previous calendar year may not
18 be prorated or repaid.

19 **SECTION 15.** 230.44 (1) (c) of the statutes is amended to read:

20 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employee has
21 permanent status in class, or an employee has served with the state as an assistant
22 district attorney or an assistant state public defender for a continuous period of 12
23 months or more, the employee may appeal a demotion, layoff, suspension, discharge
24 or reduction in base pay to the commission as the final step in the state employee

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1 grievance procedure established under s. 230.04 (14), if the appeal alleges that the
2 decision was not based on just cause.

3 (END)