



D-Note
State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2783/P1 P2
FFK:emw
L+RAC

8/31 AM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

S.A.V.
X-REF

Regen.

1 AN ACT *to repeal* 230.16 (2), 230.16 (6), 230.16 (7m) (c), 230.16 (9), 230.16 (10)
2 and 230.25 (1m); *to renumber and amend* 230.01 (2), 230.16 (7) and 230.43
3 (1) (a); *to amend* 13.92 (3) (b), 36.115 (6), 62.13 (4) (d), 63.08 (1) (f) 1., 63.08 (1)
4 (f) 2., 63.08 (1) (f) 3., 63.37, 63.39 (2m), 66.0509 (1), 230.08 (2) (c), 230.13 (1) (a),
5 230.13 (3) (b), 230.147 (1), 230.15 (1), 230.15 (1m) (c) 1., 230.16 (title), 230.16
6 (1) (a), 230.16 (3), 230.16 (4), 230.16 (5), 230.16 (7m) (b) 4., 230.16 (11), 230.17
7 (1), 230.17 (2), 230.18, 230.21 (1), 230.21 (2), 230.21 (3), 230.213, 230.24 (1),
8 230.24 (2), 230.25 (1), 230.25 (1n) (a) (intro.), 230.25 (2) (a), 230.26 (2), 230.26
9 (4), 230.28 (1) (a), 230.31 (title), 230.31 (1) (intro.), 230.31 (1) (a), 230.34 (1)
10 (am), 230.34 (2) (a), 230.35 (3) (d), 230.43 (1) (title), 230.43 (1) (b), 230.43 (1) (c),
11 230.43 (1) (d), 230.43 (1) (e), 230.43 (5) and 321.65 (3) (g); and *to create* 230.01

1 (2) (bm), 230.01 (2) (bp) and 230.25 (2) (am) of the statutes; **relating to:** state
2 civil service.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 **SECTION 1.** 13.92 (3) (b) of the statutes is amended to read:

4 13.92 (3) (b) Notwithstanding s. 230.08 (2) (fc), those employees holding
5 positions in the classified service at the revisor of statutes bureau on October 27,
6 2007, who have achieved permanent status in class before that date, if they become
7 employed by the legislative reference bureau under 2007 Wisconsin Act 20, section
8 9130 (1f) (d) 1. or 2., shall retain, while serving in the unclassified service at the
9 legislative reference bureau, those protections afforded employees in the classified
10 service under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension,
11 discharge, layoff, or reduction in base pay. Each such employee shall may also have
12 ~~reinstatement privileges to the classified service~~ be reinstated as provided under s.
13 230.31 (1) and have any other reinstatement privileges or restoration rights provided
14 under an applicable collective bargaining agreement under subch. V of ch. 111
15 covering the employee on October 27, 2007.

Insert 2-16

16 **SECTION 2.** 36.115 (6) of the statutes is amended to read:

17 36.115 (6) All system employees holding positions in the classified or
18 unclassified service of the civil service system under ch. 230 on June 30, 2015, shall
19 be included in the personnel systems developed under subs. (2) and (3). System
20 employees holding positions in the classified service on June 30, 2015, who have

1 achieved permanent status in class on that date, shall retain, while serving in the
2 positions in the system, those protections afforded employees in the classified service
3 under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension, discharge,
4 layoff, or reduction in base pay. Such employees shall may also have reinstatement
5 ~~privileges to be reinstated in~~ the classified service as provided under s. 230.31 (1).
6 System employees holding positions in the classified service on June 30, 2015, who
7 have not achieved permanent status in class on that date are eligible to receive the
8 protections, privileges, and rights preserved under this subsection if they
9 successfully complete service equivalent to the probationary period required in the
10 classified service for the positions which they hold on that date.

11 **SECTION 3.** 62.13 (4) (d) of the statutes is amended to read:

12 62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and
13 under 55 years of age, with proper limitations as to health and, subject to ss. 111.321,
14 111.322, and 111.335, arrest and conviction record. The examination, including
15 minimum training and experience requirements, shall be job-related in compliance
16 with appropriate validation standards and shall be subject to the approval of the
17 board and may include tests of manual skill and physical strength. All relevant
18 experience, whether paid or unpaid, shall satisfy experience requirements. The
19 board shall control examinations and may designate and change examiners, who
20 may or may not be otherwise in the official service of the city, and whose
21 compensation shall be fixed by the board and paid by the city. Veterans and their
22 spouses shall be given preference points in accordance with s. ~~230.16 (7)~~ 63.08 (1)
23 (fm).

24 **SECTION 4.** 63.08 (1) (f) 1. of the statutes is amended to read:

1 63.08 (1) (f) 1. The commission may not impose any restriction as to age on any
2 veteran who is applying or eligible for a position under this section. The commission
3 shall give preference points to veterans and their spouses under ~~s. 230.16 (7) par.~~
4 ~~(fm)~~, except as provided under subd. 2.

5 [✓]
SECTION 5. 63.08 (1) (f) 2. of the statutes is amended to read:

6 63.08 (1) (f) 2. ~~Notwithstanding s. 230.16 (7), persons~~ Persons shall be certified
7 from the eligible list under s. 63.05 (1) (b) without adding any preference points to
8 any person's grade.

9 [✓]
SECTION 6. 63.08 (1) (f) 3. of the statutes is amended to read:

10 63.08 (1) (f) 3. After the certification under subd. 2., any veteran or veteran's
11 spouse whose grade, plus the points to which the veteran or spouse is entitled under
12 ~~s. 230.16 (7) par. (fm)~~, is equal to or higher than the lowest grade on the list made
13 under subd. 2. shall be added to the certification list under s. 63.05 (1) (b). The
14 number of persons added to a certification list under this subdivision may not exceed
15 the number of persons initially certified under subd. 2.

16 [✓]
SECTION 7. 63.37 of the statutes is amended to read:

17 **63.37 Board to keep a register of eligibles.** From the returns or reports of
18 the examiners, or from the examinations made by the board, the board shall prepare
19 and keep a register for each grade or class of position in the service of such city, of
20 the persons whose general average standing upon examinations for such grade or
21 class is not less than the minimum fixed by the rules of such board, and who are
22 otherwise eligible, and such persons shall take rank upon the register as candidates
23 in the order of their relative excellence as determined by examination without
24 reference to priority of time of examination. The board shall impose no restrictions

1 as to age in case of veterans, and veterans and their spouses shall be given preference
2 points in accordance with s. ~~230.16 (7)~~ 63.08 (1) (fm).

3 **SECTION 8.** 63.39 (2m) of the statutes is amended to read:

4 63.39 (2m) Notwithstanding s. ~~230.16 (7)~~ 63.08 (1) (fm), the board shall certify
5 persons from the list of eligibles without adding preference points to their grades.
6 After the certification under sub. (1) or (2), the board shall add to the certification list
7 any veteran or veteran's spouse whose grade, plus the points to which the veteran
8 or spouse is entitled under s. ~~230.16 (7)~~ 63.08 (1) (fm), is equal to or higher than the
9 lowest grade on the list of eligibles.

10 **SECTION 9.** 66.0509 (1) of the statutes is amended to read:

11 66.0509 (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or
12 66.0101 to establish a civil service system of selection, tenure and status, and the
13 system may be made applicable to all municipal personnel except the chief executive
14 and members of the governing body, members of boards and commissions including
15 election officials, employees subject to s. 62.13, members of the judiciary and
16 supervisors. Any town may establish a civil service system under this subsection.
17 For veterans there shall be no restrictions as to age, and veterans and their spouses
18 shall be given preference points in accordance with s. ~~230.16 (7)~~ 63.08 (1) (fm). The
19 system may also include uniform provisions in respect to attendance, leave
20 regulations, compensation and payrolls for all personnel included in the system. The
21 governing body of any city, village or town establishing a civil service system under
22 this section may exempt from the system the librarians and assistants subject to s.
23 43.09 (1).

24 **SECTION 10.** 230.01 (2) of the statutes is renumbered 230.01 (2) (a) and
25 amended to read:

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3-24
→

1 230.01 (2) (a) It is the policy of the state and the responsibility of the director
2 and the administrator to maintain a system of personnel management which fills
3 positions in the classified service through methods which apply the merit principle,
4 with adequate civil service safeguards.

5 (b) It is the policy of this state to provide for equal employment opportunity by
6 ensuring that all personnel actions including hire, tenure or term, and condition or
7 privilege of employment be based on the ability to perform the duties and
8 responsibilities assigned to the particular position without regard to age, race, creed
9 or religion, color, disability, sex, national origin, ancestry, sexual orientation, or
10 political affiliation.

11 (c) It is the policy of this state to take affirmative action which is not in conflict
12 with other provisions of this chapter.

13 (d) It is the policy of the state to ensure its employees opportunities for
14 satisfying careers and fair treatment based on the value of each employee's services.

15 (e) It is the policy of this state to encourage disclosure of information under
16 subch. III and to ensure that any employee employed by a governmental unit is
17 protected from retaliatory action for disclosing information under subch. III.

18 (f) It is the policy of this state to correct pay inequities based on gender or race
19 in the state civil service system.

20 **SECTION 11.** 230.01 (2) (bm) of the statutes is created to read:

21 230.01 (2) (bm) It is the policy of this state to recruit, select, and promote
22 employees based on their relative skills, abilities, competencies, and knowledge,
23 including using open processes to consider qualified applicants for initial
24 employment.

25 **SECTION 12.** 230.01 (2) (bp) of the statutes is created to read:

Insert 7-4

1 230.01 (2) (bp) It is the policy of this state to retain employees on the basis of
2 the adequacy of their performance, to correct inadequate performance when possible
3 and appropriate, and to separate employees whose performance and personal
4 conduct is inadequate, unsuitable, or inferior.

5 SECTION 13. 230.08 (2) (c) of the statutes is amended to read:

6 230.08 (2) (c) The director, associate director, and state historian of the
7 historical society; and, with the approval of the board of curators and the
8 administrator, such number of specialists as are required by the society for specific
9 research, writing, collecting, or editing projects which for a limited period of time not
10 to exceed 2 years, renewable at the discretion of the board of curators and the
11 administrator for an additional 2-year period, require persons with particular
12 training or experience in a specialized phase or field of history, historical research,
13 writing, collecting, or editing, and any persons whose entire salary is paid from funds
14 reappropriated to the society by s. 20.245 (1) (r) where a competitive examination
15 process is impractical.

Insert 7-16

16 SECTION 14. 230.13 (1) (a) of the statutes is amended to read:

17 230.13 (1) (a) ~~Examination scores and ranks and other evaluations~~
18 Evaluations of applicants, including any scores and rankings.

19 SECTION 15. 230.13 (3) (b) of the statutes is amended to read:

20 230.13 (3) (b) The director and the administrator may provide any agency with
21 personnel information relating to the hiring and recruitment process, including
22 specifically ~~the examination~~ applicant scores and ranks and other evaluations of
23 applicants.

24 SECTION 16. 230.147 (1) of the statutes is amended to read:

Insert 7-24

1 230.147 (1) Each appointing authority of an agency with more than 100
2 authorized permanent full-time equivalent positions shall prepare, submit to the
3 bureau for approval, and implement a plan of action to employ persons who, at the
4 time determined under sub. (4), receive aid under s. 49.19, or benefits under s. 49.147
5 (3) to (5), with the goal of making the ratio of those persons occupying permanent
6 positions in the agency to the total number of persons occupying permanent positions
7 in the agency equal to the ratio of the average case load receiving aid under s. 49.19,
8 or benefits under s. 49.147 (3) to (5), in this state in the previous fiscal year to the
9 average number of persons in the state civilian labor force in the preceding fiscal
10 year, as determined by the department of children and families.

11 **SECTION 17.** 230.15 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
12 is amended to read:

13 230.15 (1) Subject to the restriction under s. 230.143, appointments to, and
14 promotions in, the classified service shall be made only according to merit and
15 fitness, which shall be ascertained so far as practicable by competitive ~~examination~~
16 procedures. The director may waive competitive ~~examination~~ procedures for
17 appointments made under subs. (1m) and (2) and shall waive competitive
18 ~~examination~~ procedures for appointments made under sub. (2m).

19 **SECTION 18.** 230.15 (1m) (c) 1. of the statutes, as affected by 2015 Wisconsin
20 Act 55, is amended to read:

21 230.15 (1m) (c) 1. Whenever a position is included in the classified service
22 under par. (a), the director may waive the requirement for competitive ~~examination~~
23 procedures under sub. (1) with respect to the position and certify the incumbent
24 employee for appointment to the position in accordance with subd. 2.

25 **SECTION 19.** 230.16 (title) of the statutes is amended to read:

25

Insert 8-25

1 **230.16** (title) **Applications and examinations resumes.**

2 **SECTION 20.** 230.16 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
3 is amended to read:

4 230.16 (1) (a) The director shall require persons applying for admission to any
5 examination under this subchapter or under the rules of the director a position in the
6 civil service to file an application and resume with the bureau a reasonable time prior
7 to the proposed examination.

****NOTE: It would be useful to include more information about how the bureau acts as a "resume clearinghouse." Such direction could be included in this section or s. 230.25.

8 **SECTION 21.** 230.16 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
9 is repealed.

10 **SECTION 22.** 230.16 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
11 is amended to read:

12 230.16 (3) The director may appoint boards of examiners ^{evaluators} ~~interviewers~~ of at
13 least 2 persons, of which one shall be a representative of the bureau and one shall
14 be a representative of the appointing authority, for the purpose of conducting oral
15 examinations ^{evaluations} ~~initial interviews~~ as a part of the examination hiring procedure for
16 certain positions. All board members ^{evaluators} ~~interviewers~~ shall be well-qualified and
17 impartial. All questions asked and answers made in any examination of applicants
18 ~~initial interview~~ ^{oral evaluation} shall be recorded and made a part of the records of the applicants
19 applicant's records.

****NOTE: I included the concept of an "initial interview" to replace the oral examination. The idea is that the initial interviews are for the purpose of creating a certification list. Is this consistent with your intent? If it is, it will be necessary to flesh out the difference between initial interviews and interviews that follow the certification list. Also, do you want language similar to this for any interviews that occur after the certification list?

20 **SECTION 23.** 230.16 (4) of the statutes is amended to read:

1 230.16 (4) All ~~examinations~~ eligibility requirements, including minimum
2 training and experience requirements, for positions in the classified service shall be
3 job-related in compliance with appropriate validation standards and shall be subject
4 to the approval of the administrator. All relevant experience, whether paid or
5 unpaid, shall satisfy experience requirements.

6 **SECTION 24.** 230.16 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is amended to read:

8 230.16 (5) In the interest of sound personnel management, consideration of
9 applicants, and service to agencies, the director may set a standard for proceeding
10 to subsequent steps in ~~an examination~~ the hiring process, provided that all
11 applicants are fairly treated and due notice has been given. ~~The standard may be~~
12 ~~at or above the passing point set by the director for any portion of the examination.~~
13 The director shall utilize appropriate scientific techniques and procedures in
14 administering the selection process, in rating the results of examinations
15 applications, resumes, and ^{oral evaluations} ~~initial interviews~~ and in determining the relative
16 ratings of the competitors.

17 **SECTION 25.** 230.16 (6) of the statutes, as affected by 2015 Wisconsin Act 55,
18 is repealed.

****NOTE: This subsection requires the bureau to provides accommodations to an applicant if the applicant is unable to complete an examination due to a disability. I repealed this provision because this bill eliminates the concept of an examination. Okay? Another option is to modify sub. (6) to apply more generally to the hiring process.

19 **SECTION 26.** 230.16 (7) of the statutes is renumbered 63.08 (1) (fm) and 63.08
20 (1) (fm) 1. (intro.) and 2., as renumbered, are amended to read:

21 63.08 (1) (fm) 1. (intro.) A preference shall be given to those veterans and to
22 those spouses of veterans specified in subs. 1. ~~to 6.~~ a. to f. who gain eligibility on any
23 competitive employment register and who do not currently hold a permanent

1 appointment or have mandatory restoration rights to a permanent appointment to
2 any position. A preference means the following:

3 2. An applicant who is certified for a position after receiving a preference under
4 ~~par. (a) 4., 5. or 6. subd. 1. d., e., or f.~~ and who is appointed to that position may not
5 obtain a preference under ~~par. (a) 4., 5. or 6. subd. 1. d., e., or f.~~ for any other civil
6 service position for which the applicant subsequently applies.

7 **SECTION 27.** 230.16 (7m) (b) 4. of the statutes is amended to read:

8 230.16 (7m) (b) 4. ~~The examination~~ The appointing authority has not extended
9 interviews for the position is ~~a written, nonessay examination that is scored by a~~
10 machine or filled the position at the time the application is received.

***NOTE: This relates to allowing late applications for certain veterans. Please confirm that this provision is consistent with your intent.

11 **SECTION 28.** 230.16 (7m) (c) of the statutes, as affected by 2015 Wisconsin Act
12 55, is repealed.

13 **SECTION 29.** 230.16 (9) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is repealed.

***NOTE: This repeals a provision that requires officials in control of state, municipal, and county buildings to furnish adequate rooms and building services without charge for the administration of examinations. Please let me know if this provision should be kept and amended to apply to some other aspect of the hiring process.

15 **SECTION 30.** 230.16 (10) of the statutes is repealed.

16 **SECTION 31.** 230.16 (11) of the statutes, as affected by 2015 Wisconsin Act 55,
17 is amended to read:

18 230.16 (11) Records of examinations applicants, including a resume,
19 application, and a transcript or recorded tape of oral examinations an initial
20 interview ^{evaluations} given under this subchapter shall be retained for at least one year.
21 Inspection of such records shall be regulated by rules of the director.

1 **SECTION 32.** 230.17 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.17 (1) The director shall provide by rule, the conditions, not otherwise
4 provided by law, under which an applicant may be refused ~~examination or~~
5 ~~reevaluation, or an eligible refused~~ certification. These conditions shall be based
6 on sufficient reason and shall reflect sound technical personnel management
7 practices and those standards of conduct, deportment and character necessary and
8 demanded to the orderly, efficient and just operation of the state service.

9 **SECTION 33.** 230.17 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is amended to read:

11 230.17 (2) If the director refuses to ~~examine an applicant, or after an~~
12 ~~examination~~ to certify an eligible, as provided in this section, the director, if
13 requested by the applicant so rejected within 10 days of the date of receipt of the
14 notice of rejection, shall give the applicant a full and explicit statement of the exact
15 cause of such refusal to ~~examine or~~ to certify. Applicants may appeal to the
16 commission the decision of the director to refuse to ~~examine or~~ certify under s. 230.44
17 (1) (a). Upon request of an applicant or an eligible for a civil service position who has
18 a disability, the department of health services shall obtain from the director a
19 detailed description of all duties entailed by such position and shall determine and
20 report its findings to the director, as to the ability of the applicant, or eligible, to
21 perform the duties of such position. Such findings shall be conclusive as to the
22 qualifications of any applicant, or eligible, so examined. A notice of rejection shall
23 notify an applicant or eligible of his or her rights under this subsection.

24 **SECTION 34.** 230.18 of the statutes, as affected by 2015 Wisconsin Act 55, is
25 amended to read:

1 **230.18 Discrimination prohibited.** No question in any form of application
 2 ~~or in any examination~~ may be so framed as to elicit information concerning the
 3 partisan political or religious opinions or affiliations of any applicant nor may any
 4 inquiry be made concerning such opinions or affiliations and all disclosures thereof
 5 shall be discountenanced except that the director may evaluate the competence and
 6 impartiality of applicants for positions such as clinical chaplain in a state
 7 institutional program. No discriminations may be exercised in the recruitment,
 8 application, ~~examination~~ or hiring process against or in favor of any person because
 9 of the person's political or religious opinions or affiliations or because of age, sex,
 10 disability, race, color, sexual orientation, national origin, or ancestry except as
 11 otherwise provided.

****NOTE: I believe you are considering changes to the promotion statute, s. 230.19.
 This draft does not include any changes to s. 230.19. Please let me know what you would
 like the new procedures for promotion, if any, to be.

12 **SECTION 35.** 230.21 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
 13 is amended to read:

14 230.21 (1) Subject to s. 230.275, the director may, to meet the needs of the
 15 service, establish separate recruitment, ~~examination~~ and certification procedures
 16 for filling positions in unskilled labor and service classes.

17 **SECTION 36.** 230.21 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
 18 is amended to read:

19 230.21 (2) The director may designate classifications in which applicants are
 20 in critically short supply and may develop such recruitment, ~~examination~~ and
 21 certification processes as will provide agencies with prompt certification when
 22 qualified applicants can be found, provided that due notice has been given and proper
 23 competitive standards have been maintained.

Handwritten note: In sect 13-12

1 **SECTION 37.** 230.21 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.21 (3) The director shall designate classifications in prison industries in
4 the department of corrections as critical positions requiring expeditious hiring and
5 shall develop such recruitment, ~~examination~~ and certification processes as will
6 provide the department with prompt certification when qualified applicants can be
7 found, provided that due notice has been given and proper competitive standards
8 have been maintained.

9 **SECTION 38.** 230.213 of the statutes, as affected by 2015 Wisconsin Act 55, is
10 amended to read:

11 **230.213 Affirmative action procedures for corrections positions.** The
12 director may, to meet affirmative action objectives, establish such recruitment,
13 ~~examination~~ and certification procedures for positions in the department of
14 corrections as will enable the department of corrections to increase the number of
15 employees of a specified gender or a specified racial or ethnic group in those positions.
16 The director shall design the procedures to obtain a work force in the department of
17 corrections that reflects the relevant labor pool. The director may determine the
18 relevant labor pool from the population of the state or of a particular geographic area
19 of the state, whichever is more appropriate for achieving the affirmative action
20 objective.

21 **SECTION 39.** 230.24 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is amended to read:

23 230.24 (1) The administrator may by rule develop a career executive program
24 that emphasizes excellence in administrative skills in order to provide agencies with
25 a pool of highly qualified executive candidates, to provide outstanding

1 administrative employees a broad opportunity for career advancement, and to
2 provide for the mobility of such employees among the agencies and units of state
3 government for the most advantageous use of their managerial and administrative
4 skills. To accomplish the purpose of this program, the director may provide policies
5 and standards for recruitment, ~~examination~~, probation, employment register
6 control, certification, transfer, promotion, and reemployment, and the director may
7 provide policies and standards for classification and salary administration, separate
8 from procedures established for other employment. The administrator shall
9 determine the positions which may be filled from career executive employment
10 registers.

11 **SECTION 40.** 230.24 (2) of the statutes is amended to read:

12 230.24 (2) A vacancy in a career executive position may be filled through an
13 open competitive ~~examination~~ hiring process, a competitive promotional
14 ~~examination process~~, or by restricting competition to employees in career executive
15 positions in order to achieve and maintain a highly competent work force in career
16 executive positions, with due consideration given to affirmative action. The
17 appointing authority shall consider the guidelines under s. 230.19 when deciding
18 how to fill a vacancy under this ~~paragraph~~ subsection.

19 **SECTION 41.** 230.25 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
20 is amended to read:

21 230.25 (1) Appointing authorities shall give written notice to the director of any
22 vacancy to be filled in any position in the classified service. The director shall certify,
23 under this subchapter and the rules of the director, from the register of eligibles
24 appropriate for the kind and type of employment, the grade and class in which the
25 position is classified, any number of names at the head thereof. In determining the

1 number of names to certify, the director shall use statistical methods and personnel
2 management principles that are designed to maximize the number of certified names
3 that are appropriate for filling the specific position vacancy. Up to 2 persons
4 considered for appointment 3 times and not selected may be removed from the
5 register for each 3 appointments made. ~~Certification under this subsection shall be~~
6 ~~made before granting any preference under s. 230.16 (7).~~

7 **SECTION 42.** 230.25 (1m) of the statutes is repealed.

****NOTE: Current law provides a point system for veterans for purposes of getting on a certification list. The Tennessee provision incorporated into this draft is a preference for awarding interviews to veterans and their spouses, which means it applies only to those veterans and spouses who are included on the certification list.

8 **SECTION 43.** 230.25 (1n) (a) (intro.) of the statutes, as affected by 2015
9 Wisconsin Act 55, is amended to read:

10 230.25 (1n) (a) (intro.) After certifying names under subs. (1), and (1g) ~~and~~
11 ~~(1m)~~, the director may engage in expanded certification by doing one or more of the
12 following:

13 **SECTION 44.** 230.25 (2) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is amended to read:

15 230.25 (2) (a) When certifying names to appointing authorities under this
16 section, the director shall specify whether the certification includes qualifying
17 veterans, or persons the hiring of whom would serve affirmative action purposes,
18 without divulging the names of those individuals. ~~The director shall not disclose any~~
19 ~~applicant's test score, with or without the addition of veterans preference points~~
20 ~~under s. 230.16 (7) 63.08 (1) (fm), to the appointing authority.~~

spouses of service members,

21 **SECTION 45.** 230.25 (2) (am) of the statutes is created to read:

1 230.25 (2) (am) 1. If the certification list for a position includes a veteran and
2 the appointing authority extends invitations to interview candidates for the position,
3 the appointing authority shall extend an invitation to interview to the veteran.

4 2. If a veteran is included on a certification list and if the minimum
5 qualifications and the skills, abilities, competencies, and knowledge of the veteran
6 and any other applicant being interviewed for the position are equal, the appointing
7 authority shall give a preference to the veteran for the position.

8 3. When extending invitations to interview for an appointment or promotion,
9 an appointing authority shall offer an interview to the spouse or surviving spouse of
10 a veteran if the spouse or surviving spouse is a qualified voter in this state or has been
11 a resident of this state for at least 2 years preceding the date of the spouse's
12 application and one of the following applies:

13 a. As a result of the veteran's military service, the veteran suffered a 100
14 percent service-related disability or is permanently and totally disabled.

15 b. The veteran died in the line of duty during his or her military service and
16 the surviving spouse has not remarried since the veteran died.

****NOTE: These preferences are from Tennessee Code 8-30-313. This replaces the
point system for veterans under current law. Please confirm this is consistent with your
intent.

17 c. If an appointing authority does not appoint an eligible veteran and does
18 appoint an eligible nonveteran to a position, no later than 30 days after making the
19 appointment the appointing authority shall file with the director, in writing, the
20 reasons for the appointing authority's decision. Any information filed under this
21 subd. 3. c. is part of the veteran's record. The director may not make any information
22 filed under this subd. 3. c. available to anyone other than the veteran unless directed
23 to do so by the appointing authority who filed the information.

OR SPOUSE OF A SERVICE MEMBER

****NOTE: This filing requirement follows the preferences in the Tennessee law.
Please let me know if it is not your intent to include this provision.

1 **SECTION 46.** 230.26 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.26 (2) If there are urgent reasons for filling a vacancy in any position in
4 the classified service and the director is unable to certify to the appointing authority,
5 upon requisition by the latter, a list of persons eligible for appointment from an
6 appropriate employment register, the appointing authority may nominate a person
7 to the director for ~~noncompetitive examination~~. If the nominee is certified by the
8 director as qualified, the nominee may be appointed provisionally to fill the vacancy
9 until an appointment can be made from a register established after announcement
10 of competition for the position, except that no provisional appointment may be
11 continued for more than 45 working days after the date of certification from the
12 register. Successive appointments may not be made under this subsection. This
13 subsection does not apply to a person appointed to a vacant position in the classified
14 service under s. 230.275.

15 **SECTION 47.** 230.26 (4) of the statutes is amended to read:

16 230.26 (4) Fringe benefits specifically authorized by statutes, with the
17 exception of deferred compensation plan participation under subch. VII of ch. 40,
18 worker's compensation, unemployment insurance, group insurance, retirement, and
19 social security coverage, shall be denied employees hired under this section. Such
20 employees may not be considered permanent employees and do not qualify for
21 tenure, vacation, paid holidays, sick leave, performance awards, or the right to
22 compete in promotional ~~examinations~~ processes.

1 **SECTION 48.** 230.28 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.28 (1) (a) All original and all promotional appointments to permanent,
4 sessional and seasonal positions, with the exception of those positions designated as
5 supervisor or management under s. 111.81, in the classified service shall be for a
6 probationary period of ~~6 months~~ one year, but the director at the request of the
7 appointing authority and in accordance with the rules related thereto may extend
8 any such period for a maximum of 3 additional months. Dismissal may be made at
9 any time during such periods. Upon such dismissal, the appointing authority shall
10 report to the director and to the employee removed, the dismissal and the reason
11 therefor. The director may remove an employee during the employee's probationary
12 period if the director finds, after giving notice and an opportunity to be heard, that
13 such employee was appointed as a result of fraud or error.

Text 19-14

****NOTE: Section 230.28 (1) (c) allows the director to waive, at the request of an appointing authority, any portion of a "lengthened probationary period but in no case before a 6-month probationary period has been served." Under current law, this provision applies specifically to probationary periods for employees in supervisory or management positions. See s. 230.28 (1) (am). This bill changes the general probationary period to one year, which makes it unclear what is intended by the phrase "lengthened probationary period." First, do you want to continue this exception for supervisors and managers? Second, do you want to clarify whether this waiver is or is not available for general employees?

14 **SECTION 49.** 230.31 (title) of the statutes is amended to read:

15 **230.31 (title) Restoration of employment and reinstatement privileges.**

16 **SECTION 50.** 230.31 (1) (intro.) of the statutes is amended to read:

17 230.31 (1) (intro.) Any person who has held a position and obtained permanent
18 status in a class under the civil service law and rules and who has separated from
19 the service without any delinquency or misconduct on his or her part but owing to
20 reasons of economy or otherwise shall may be granted the following considerations:

1 **SECTION 51.** 230.31 (1) (a) of the statutes is amended to read:

2 230.31 (1) (a) For a ~~5-year~~ 3-year period from the date of separation, the
3 person ~~shall be~~ is eligible for reinstatement in a position having a comparable or
4 lower pay rate or range for which such person is qualified.

5 **SECTION 52.** 230.34 (1) (am) of the statutes is amended to read:

6 230.34 (1) (am) If an employee fails to report for work as scheduled or to contact
7 his or her supervisor, the appointing authority may discipline the employee. If an
8 employee fails to report for work as scheduled, or to contact his or her supervisor for
9 a minimum of ~~5-3 consecutive~~ during a calendar year working days, the appointing authority shall consider
10 the employee's position abandoned and may discipline the employee or treat the
11 employee as having resigned his or her position. If the appointing authority decides
12 to treat the position abandonment as a resignation, the appointing authority shall
13 notify the employee in writing that the employee is being treated as having
14 effectively resigned as of the end of the last day worked.

***NOTE: This definition of abandoning a position is still more stringent than the UI provision, because this provision, as amended, requires an employee to fail to report to work as scheduled for 3 *consecutive* working days, as opposed to the UI provision which includes as "misconduct," absenteeism by an employee on more than 2 occasions within the 120-day period before the date of the employee's termination. Okay?

15 **SECTION 53.** 230.34 (2) (a) of the statutes is amended to read:

16 230.34 (2) (a) The An appointing authority may determine the order of layoff
17 of such employees may be determined by based on merit, disciplinary records,
18 seniority, or performance or a any combination thereof or by other factors. The
19 appointing authority shall submit a plan for layoffs under this section to the division.

20 **SECTION 54.** 230.35 (3) (d) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

1 230.35 (3) (d) Employees of the state are entitled to reasonable paid leaves of
2 absence to compete in promotional ~~examinations and~~ interviews. The administrator
3 shall promulgate rules governing the lengths of time allowable for such leaves, their
4 frequency and the provisions for their use.

5 **SECTION 55.** 230.43 (1) (title) of the statutes is amended to read:

6 230.43 (1) (title) ~~OBSTRUCTION~~ HIRING PROCESS; OBSTRUCTION OR FALSIFICATIONS
7 ~~OF EXAMINATIONS.~~

8 **SECTION 56.** 230.43 (1) (a) of the statutes is renumbered 230.43 (1) (intro.) and
9 amended to read:

10 230.43 (1) (intro.) Any person who ~~willfully~~, alone or in cooperation with one
11 or more persons, ~~defeats~~ does any of the following is, for each offense, guilty of a
12 misdemeanor:

13 (am) Willfully ~~defeats~~, deceives or obstructs any person in respect of the rights
14 of ~~examination~~ application or registration under this subchapter or any rules
15 prescribed pursuant thereto, ~~or.~~

****NOTE: I am not sure if "application" is an accurate replacement for examination
in this context. Please advise.

16 **SECTION 57.** 230.43 (1) (b) of the statutes is amended to read:

17 230.43 (1) (b) ~~Who willfully~~, Willfully or corruptly, falsely marks, grades,
18 estimates, or reports upon ~~the examination~~ an application or resume, or proper
19 standing of any person ~~examined~~ evaluated, registered, or certified, pursuant to this
20 subchapter, or aids in so doing, ~~or.~~

21 **SECTION 58.** 230.43 (1) (c) of the statutes is amended to read:

1 230.43 (1) (c) ~~Who willfully~~ Willfully or corruptly makes any false
2 representations concerning the same, or concerning ~~the person examined~~ an
3 applicant, ~~or.~~

4 **SECTION 59.** 230.43 (1) (d) of the statutes is amended to read:

5 230.43 (1) (d) ~~Who willfully~~ Willfully or corruptly furnishes any person any
6 special or secret information for the purpose of either improving or injuring the
7 prospects or chances of any persons so ~~examined~~ evaluated, registered, or certified,
8 being appointed, employed, or promoted, ~~or.~~

9 **SECTION 60.** 230.43 (1) (e) of the statutes is amended to read:

10 230.43 (1) (e) ~~Who personates~~ Personates any other person, or permits or aids
11 in any manner any other person to personate him or her in connection with any
12 ~~examination,~~ registration, application, or request to be ~~examined~~ evaluated or
13 registered, ~~shall for each offense be guilty of a misdemeanor.~~

14 **SECTION 61.** 230.43 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

16 230.43 (5) **TAXPAYERS' SUITS.** The right of any taxpayer to bring any action to
17 restrain the payment of compensation to any person appointed to or holding any
18 office or place of employment in violation of this subchapter shall not be limited or
19 denied by reason of the fact that the office or place of employment has been classified
20 as, or determined to be, not subject to a competitive examination hiring process;
21 however, any judgment or injunction in any such action shall be prospective only, and
22 shall not affect payments already made or due to such persons by the proper
23 disbursing officers, in accordance with the rules of the administrator in force at the
24 time of such payments.

25 **SECTION 62.** 321.65 (3) (g) of the statutes is amended to read:

1 321.65 (3) (g) *Veterans preferences*. The right of a person to reemployment
2 under this subsection does not entitle the person to retention, preference, or
3 displacement rights over any person who has a superior claim under s. 45.03 (4),
4 62.13 (4) (d), 63.08 (1) (f) or (fm), 63.37, 63.39 (2m), 66.0509 (1), 230.15 (2m), 230.16
5 ~~(7)~~ or (7m), 230.21 (1m), 230.25, or 230.275.

6 →

(END)

Insert
23-6

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2783/P2dn

RAC:

1
emw

— Date —

✓
Senator Roth:

This version of the draft contains all of the matters I discussed with your staff at the August 24, 2015, meeting except for the Tennessee appeals process. I thought it would be helpful for us to spend some time going through the process and comparing it to the current Wisconsin process. There may be ways to further truncate the process by combining parts of Tennessee law and Wisconsin law.

Also, please note that I provided for a 3 month delayed effective date in order to provide adequate time to get the new commissioners appointed to the state personnel commission and to allow for a smooth transition for the transfer of the commission from DWD to DOA.

✱ After you have had a chance to review the draft, we should meet to go over the material again to make certain the draft carries out your intent. We can also prepare an Analysis on the next version of the draft once final decisions have been made on the key items.

Rick A. Champagne
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**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2783/P2ins
RAC:emw

Insert 2-16:

SECTION 1. 15.01 (2) of the statutes is amended to read:

15.01 (2) "Commission" means a 3-member governing body in charge of a department or independent agency or of a division or other subunit within a department, except for the Wisconsin waterways commission and the state personnel commission which shall consist of 5 members and the parole commission which shall consist of 8 members. A Wisconsin group created for participation in a continuing interstate body, or the interstate body itself, shall be known as a "commission", but is not a commission for purposes of s. 15.06. The parole commission created under s. 15.145 (1) shall be known as a "commission", but is not a commission for purposes of s. 15.06.

History: 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237; 2001 a. 16, 105, 109; 2005 a. 25, 421; 2007 a. 20; 2009 a. 28; 2011 a. 32, 38; 2013 a. 20; 2015 a. 55.

SECTION 2. 15.06 (3) (a) 4. of the statutes is amended to read:

15.06 (3) (a) 4. The members of the ~~employment relations~~ state personnel commission.

History: 1971 c. 193, 307; 1977 c. 29, 196, 274; 1981 c. 347; 1983 a. 27, 371, 410, 538; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269, 316; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2003 a. 33; 2005, a. 149; 2009 a. 28; 2011 a. 38; 2013 a. 20; 2015 a. 55.

SECTION 3. 15.06 (3) (c) of the statutes is amended to read:

15.06 (3) (c) Each member of the ~~employment relations~~ state personnel commission shall be appointed to two-thirds of a full-time equivalent position. No member may engage in any other occupation, business, or activity that is in any way inconsistent with the performance of the member's duties nor shall the member hold any other public office.

History: 1971 c. 193, 307; 1977 c. 29, 196, 274; 1981 c. 347; 1983 a. 27, 371, 410, 538; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269, 316; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2003 a. 33; 2005, a. 149; 2009 a. 28; 2011 a. 38; 2013 a. 20; 2015 a. 55.

SECTION 4. 15.225 (2) of the statutes is renumbered 15.105 (7) and amended to read:

15.105 (7) ~~EMPLOYMENT RELATIONS~~ STATE PERSONNEL COMMISSION. There is created an ~~employment relations~~ a state personnel commission which is attached to the department of ~~workforce development~~ administration under s. 15.03, except the budget of the ~~employment relations~~ state personnel commission shall be transmitted by the department to the governor without change or modification by the department, unless agreed to by the ~~employment relations~~ state personnel commission.

History: 1977 c. 29; 1995 a. 27 ss. 107 to 111, 9126 (19), 9130 (4); 1995 a. 221; 1997 a. 3; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2013 a. 20 s. 47; 2015 a. 55.

SECTION 5. 20.425 (title) of the statutes is amended to read:

20.425 (title) Employment relations State personnel commission.

History: 1981 c. 20; 1983 a. 27; 1985 a. 29, 318; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 320; 2005 a. 25; 2009 a. 28; 2011 a. 10, 32.

SECTION 6. 20.425 (intro.) of the statutes is amended to read:

20.425 (intro.) There is appropriated to the ~~employment relations~~ state personnel commission for the following program:

History: 1981 c. 20; 1983 a. 27; 1985 a. 29, 318; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 320; 2005 a. 25; 2009 a. 28; 2011 a. 10, 32.

SECTION 7. 20.923 (4) (e) 2. of the statutes is amended to read:

20.923 (4) (e) 2. ~~Employment relations~~ State personnel commission:
chairperson and members.

History: 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c. 20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29 ss. 603 to 607, 3202 (22) (a); 1985 a. 34, 332; 1987 a. 6, 27, 82, 119, 306, 340, 354, 399, 403; 1989 a. 31, 56, 107, 208, 219, 336; 1991 a. 39, 269; 1993 a. 12, 16, 75, 123, 144, 184, 294, 349, 399, 490; 1995 a. 27 ss. 1193 to 1217m, 9130 (4), 9216 (19); 1995 a. 37, 216, 225; 1997 a. 2, 3, 27, 29, 41, 194, 237; 1999 a. 9, 42, 102, 186; 2001 a. 16, 19, 29, 109; 2003 a. 33 ss. 721 to 735m, 9160; 2003 a. 91, 320; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 616 to 630, 9121 (6) (a); 2007 a. 196; 2009 a. 28, 180; 2011 a. 10, 32, 38; 2013 a. 20 ss. 492 to 497, 2365m, 9448; 2013 a. 166; 2015 a. 55, 58; s. 13.92 (2) (i).

Insert 5-24:

SECTION 8. 73.03 (68) of the statutes is amended to read:

73.03 (68) At the request of the ~~Wisconsin Employment Relations Commission~~ state personnel commission, as provided under s. 111.91 (3q), to determine the average annual percentage change in the U.S. consumer price index for all urban

consumers, U.S. city average, as determined by the federal department of labor, for the 12 months immediately preceding the request from the ~~Wisconsin Employment Relations Commission~~ state personnel commission.

History: 1971 c. 40, 215; 1973 c. 90; 1975 c. 39; 1977 c. 143; 1977 c. 196 s. 130 (7); 1977 c. 313; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 350; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 275 s. 15 (4); 1983 a. 524; 1983 a. 538 s. 269 (3); 1985 a. 12, 29, 273; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 328, 378, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 74, 335; 1991 a. 39, 219, 313, 316; 1993 a. 16, 112, 205, 490; 1995 a. 27 ss. 3434g to 3440m, 9145 (1); 1995 a. 209, 233; 1997 a. 27, 35, 191, 237, 252; 1999 a. 9, 31, 185; 2001 a. 16, 44, 104, 107, 109; 2003 a. 33, 127; 2005 a. 25, 259; 2007 a. 20, 86; 2009 a. 2, 28, 180, 401; 2011 a. 10, 32, 257; 2013 a. 20, 54; 2015 a. 55.

SECTION 9. 111.02 (4) of the statutes is amended to read:

111.02 (4) "Commission" means the ~~employment relations~~ state personnel commission.

History: 1979 c. 89; 1983 a. 189; 1993 a. 112, 492; 1995 a. 27, 225; 1999 a. 65, 83; 2009 a. 28, 185; 2011 a. 10; 2015 a. 1.

SECTION 10. 111.18 (2) (a) 1. of the statutes is amended to read:

111.18 (2) (a) 1. Any health care institution found by the national labor relations board to have committed an unfair labor practice under 29 USC 158 or found by the ~~employment relations~~ state personnel commission to have committed a prohibited practice under s. 111.70 (3) that includes payment to any person for services rendered with respect to concerted activity engaged in by its employees for purposes of collective bargaining shall return to the state a proportional share of the amount paid to the person for the activity that constituted the unfair labor practice.

History: 1981 c. 361; 1983 a. 27; 1985 a. 29; 1989 a. 303.

SECTION 11. 111.51 (3) of the statutes is amended to read:

111.51 (3) "Commission" means the ~~employment relations~~ state personnel commission.

History: 1983 a. 189; 1995 a. 225.

SECTION 12. 111.70 (1) (c) of the statutes is amended to read:

111.70 (1) (c) "Commission" means the ~~employment relations~~ state personnel commission.

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1995 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16; 2005 a. 253; 2007 a. 20; 2009 a. 15, 21, 28, 34, 60, 402; 2011 a. 10, 32; 2013 a. 14, 20; 2013 a. 166 ss. 30, 31, 77; 2015 a. 55.

SECTION 13. 111.81 (3) of the statutes is amended to read:

111.81 (3) "Commission" means the ~~employment relations~~ state personnel commission.

History: 1971 c. 270; 1975 c. 238; 1977 c. 196; 1981 c. 112; 1983 a. 160, 189, 538; 1985 a. 29, 42; 1989 a. 31; 1993 a. 492; 1995 a. 27, 324; 1997 a. 35; 2001 a. 16; 2003 a. 33 ss. 1987m, 1988m, 9160; 2009 a. 28; 2011 a. 10, 32; 2013 a. 20 ss. 2365m, 9448; 2013 a. 166; 2015 a. 55.

SECTION 14. 118.24 (9) (b) of the statutes is amended to read:

118.24 (9) (b) To prohibit the ~~employment relations~~ state personnel commission from making a determination that persons hired as part-time administrative personnel shall be included in the collective bargaining unit of persons hired as teachers and shall be covered by the terms of a collective bargaining agreement which exists pursuant to s. 111.70.

History: 1975 c. 379, 421; 1979 c. 331; 1983 a. 317; 1985 a. 176; 1993 a. 16; 1995 a. 27, 50; 2009 a. 215.

SECTION 15. 227.03 (7) of the statutes is amended to read:

227.03 (7) Except as provided in s. 230.44 (4) (bm), this chapter does not apply to proceedings before the ~~employment relations~~ state personnel commission in matters that are arbitrated in accordance with s. 230.44 (4) (bm).

History: 1985 a. 182; 1989 a. 31; 1991 a. 32, 295; 1993 a. 16, 263, 377; 1995 a. 27 ss. 6224 to 6226m, 9130 (4); 1995 a. 77, 227, 351; 1997 a. 3, 191, 237, 283; 1999 a. 82; 2003 a. 33; 2007 a. 1; 2013 a. 20, 334; 2015 a. 55.

SECTION 16. 227.47 (2) of the statutes ~~is~~ amended to read: *as affected by 2015 Wisconsin Act 55,*

227.47 (2) Except as otherwise provided in this subsection, a proposed or final decision of the ~~employment relations~~ state personnel commission, hearing examiner or arbitrator concerning an appeal of the decision of the administrator of the division of personnel management in the department of administration made under s. 230.09 (2) (a) or (d) shall not be accompanied by findings of fact or conclusions of law. If within 30 days after the commission issues a decision in such an appeal either party files a petition for judicial review of the decision under s. 227.53 and files a written notice with the commission that the party has filed such a petition, the commission shall issue written findings of fact and conclusions of law within 90 days after receipt

of the notice. The court shall stay the proceedings pending receipt of the findings and conclusions.

History: 1975 c. 414 s. 15; 1977 c. 418; 1979 c. 208; 1985 a. 182 ss. 33r, 57; Stats. 1985 s. 227.47; 1993 a. 16, 491; 2003 a. 33 ss. 2376, 2377, 9160; 2015 a. 55.

Insert 7-4:

SECTION 17. 230.03 (8) of the statutes is amended to read:

230.03 (8) "Commission" means the employment relations state personnel commission.

History: 1971 c. 270; 1973 c. 333; 1977 c. 196 ss. 24, 100; 1977 c. 418; 1981 c. 20, 26; 1983 a. 27 ss. 1604, 2200 (15); 1983 a. 409, 453, 538; 1987 a. 32; 1989 a. 31; 1991 a. 101, 147; 1993 a. 16, 254; 1995 a. 27, 255; 1997 a. 27; 1999 a. 65, 87; 2001 a. 16, 103; 2003 a. 33 ss. 2385 to 2387s, 9160; 2005 a. 22, 74, 335, 393; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7, 10, 32, 229; 2013 a. 20 ss. 1998u, 2365m, 9448; 2013 a. 165; 2013 a. 168 s. 21; 2015 a. 55.

SECTION 18. 230.03 (12m) of the statutes is created to read:

230.03 (12m) "Service member" means a person who is serving on active duty in the U.S. armed forces, national guard, or state defense force.

SECTION 19. 230.06 (4) of the statutes is created to read:

230.06 (4) ^{An appointing authority} Shall conduct an annual performance evaluation of each employee appointed by the appointing authority. If an annual evaluation is not practical or suitable for evaluating the performance of the employee, the appointing authority may conduct the performance evaluation at least once in each 18-month period.

SECTION 20. 230.06 (5) of the statutes is created to read:

230.06 (5) ^{An appointing authority} Shall maintain permanently an employee's disciplinary records in the employee's personnel file. Disciplinary records may not be removed from an employee's personnel file.

Insert 7-16:

SECTION 21. 230.08 (2) (e) 4. of the statutes is amended to read:

230.08 (2) (e) 4. Employment relations State personnel commission — 1.

History: 1971 c. 40, 270; 1973 c. 333, 335; 1977 c. 29, 187; 1977 c. 196 ss. 34, 108, 130 (5); 1977 c. 272, 418, 449; Stats. 1977 s. 230.08; 1979 c. 34, 189, 221, 356, 361; 1981 c. 20, 347, 374; 1983 a. 27 ss. 1605o to 1609am, 2200 (15); 1983 a. 189 s. 329 (27); 1983 a. 371, 378; 1985 a. 29; 1987 a. 27, 119, 204, 354, 399, 403; 1989 a. 31, 107, 119, 122, 169, 208, 219, 336; 1991 a. 39, 250, 269; 1993 a. 16, 349, 399; 1995 a. 27 ss. 6245 to 6277m, 9126 (19), 9130 (4); 1995 a. 216; 1997 a. 3, 27, 179, 194, 237; 1999 a. 9, 42, 87, 186; 2001 a. 16, 19, 109; 2003 a. 33 ss. 2392 to 2407b, 9160; 2003 a. 91, 326; 2005 a. 22, 25; 2007 a. 1; 2007 a. 20 ss. 3006 to 3014, 9121 (6) (a); 2009 a. 28; 2011 a. 10, 32, 38, 155; 2013 a. 20 ss. 2000 to 2010, 2365m, 9448; 2013 a. 166; 2015 a. 55.

SECTION 22. 230.08 (4) (a) of the statutes is amended to read:

230.08 (4) (a) The number of administrator positions specified in sub. (2) (e) includes all administrator positions specifically authorized by law to be employed outside the classified service in each department, board or commission and the historical society, and any other managerial position determined by an appointing authority. In this paragraph, "department" has the meaning given under s. 15.01 (5), "board" means the educational communications board, government accountability board, investment board, public defender board and technical college system board and "commission" means the employment relations state personnel commission and the public service commission. Notwithstanding sub. (2) (z), no division administrator position exceeding the number authorized in sub. (2) (e) may be created in the unclassified service.

History: 1971 c. 40, 270; 1973 c. 333, 335; 1977 c. 29, 187; 1977 c. 196 ss. 34, 108, 130 (5); 1977 c. 272, 418, 449; Stats. 1977 s. 230.08; 1979 c. 34, 189, 221, 356, 361; 1981 c. 20, 347, 374; 1983 a. 27 ss. 1605o to 1609am, 2200 (15); 1983 a. 189 s. 329 (27); 1983 a. 371, 378; 1985 a. 29; 1987 a. 27, 119, 204, 354, 399, 403; 1989 a. 31, 107, 119, 122, 169, 208, 219, 336; 1991 a. 39, 250, 269; 1993 a. 16, 349, 399; 1995 a. 27 ss. 6245 to 6277m, 9126 (19), 9130 (4); 1995 a. 216; 1997 a. 3, 27, 179, 194, 237; 1999 a. 9, 42, 87, 186; 2001 a. 16, 19, 109; 2003 a. 33 ss. 2392 to 2407b, 9160; 2003 a. 91, 326; 2005 a. 22, 25; 2007 a. 1; 2007 a. 20 ss. 3006 to 3014, 9121 (6) (a); 2009 a. 28; 2011 a. 10, 32, 38, 155; 2013 a. 20 ss. 2000 to 2010, 2365m, 9448; 2013 a. 166; 2015 a. 55.

SECTION 23. 230.08 (4) (d) of the statutes is amended to read:

230.08 (4) (d) The division administrator appointed under sub. (2) (e) 4. shall be an attorney and shall be appointed by the chairperson of the employment relations state personnel commission.

History: 1971 c. 40, 270; 1973 c. 333, 335; 1977 c. 29, 187; 1977 c. 196 ss. 34, 108, 130 (5); 1977 c. 272, 418, 449; Stats. 1977 s. 230.08; 1979 c. 34, 189, 221, 356, 361; 1981 c. 20, 347, 374; 1983 a. 27 ss. 1605o to 1609am, 2200 (15); 1983 a. 189 s. 329 (27); 1983 a. 371, 378; 1985 a. 29; 1987 a. 27, 119, 204, 354, 399, 403; 1989 a. 31, 107, 119, 122, 169, 208, 219, 336; 1991 a. 39, 250, 269; 1993 a. 16, 349, 399; 1995 a. 27 ss. 6245 to 6277m, 9126 (19), 9130 (4); 1995 a. 216; 1997 a. 3, 27, 179, 194, 237; 1999 a. 9, 42, 87, 186; 2001 a. 16, 19, 109; 2003 a. 33 ss. 2392 to 2407b, 9160; 2003 a. 91, 326; 2005 a. 22, 25; 2007 a. 1; 2007 a. 20 ss. 3006 to 3014, 9121 (6) (a); 2009 a. 28; 2011 a. 10, 32, 38, 155; 2013 a. 20 ss. 2000 to 2010, 2365m, 9448; 2013 a. 166; 2015 a. 55.

Insert 7-24:

SECTION 24. 230.13 (3) (c) of the statutes is created to read:

230.13 (3) (c) The administrator and the director shall provide an appointing authority with access to the personnel files of any individual who currently holds a position whom the appointing authority intends to make an offer of employment.

Insert 8-25:

SECTION 25. 230.15 (4) of the statutes is created to read:

* 230.15 (4) No later than 30 days after receiving from the director a list of names of individuals who are certified for appointment to a vacant position, the appointing authority shall make every effort to make an offer of employment for the position.

SECTION 26. 230.15 (5) of the statutes is created to read:

* 230.15 (5) Annually, each appointing authority shall submit a report to the director and the administrator indicating the number of days it took to make an offer of employment for a vacant position after receiving from the director a list of names of individuals who are certified for appointment to the position.

SECTION 27. 230.15 (6) of the statutes is created to read:

* 230.15 (6) An appointing authority may not make an offer of employment to any individual who currently holds a position unless the appointing authority has reviewed the personnel file of the individual.

Insert 13-12:

SECTION 28. 230.19 (1) of the statutes is renumbered 230.19.

SECTION 29. 230.19 (2) of the statutes is repealed.

SECTION 30. 230.19 (3) of the statutes is repealed.

Insert 19-14:

SECTION 31. 230.28 (1) (c) of the statutes is amended to read:

* 230.28 (1) (c) Upon request by the appointing authority, the director may waive any portion of the lengthened probationary period but in no case before a 6-month one-year probationary period has been served.

History: 1971 c. 270, 336; 1977 c. 196 ss. 52, 117, 130 (4), (5), 131; 1977 c. 273; Stats. 1977 s. 230.28; 1979 c. 221; 1983 a. 402; 1989 a. 144; 1997 a. 112; 1999 a. 9; 2013 a. 123; 2015 a. 55.

SECTION 32. 230.28 (6) of the statutes is repealed.

Insert 23-6:

* SECTION 33. 2015 Wisconsin Act 55, section 9101 (5n) (a) is amended to read:

[2015 Wisconsin Act 55] Section 9101 (5n) (a) In this subsection, "agency" means ~~the board of commissioners of public lands; the educational communications board; the department of financial institutions; the government accountability board; the higher educational aids board; the state historical society; the public service commission; the department of safety and professional services; the state fair park board; the department of tourism~~ any agency within the executive branch of state government, other than the Board of Regents of the University of Wisconsin System.

X
SECTION 34. 2015 Wisconsin Act 55, section 9101 (5n) (b) is amended to read:

[2015 Wisconsin Act 55] Section 9101 (5n) (b) The department of administration shall consult with each agency and develop a plan for assuming responsibility for services relating to human resources, The department of administration shall also consult with the board of commissioners of public lands, the educational communications board, the department of financial institutions, the government accountability board, the higher educational aids board, the state historical society, the public service commission, the department of safety and professional services, the state fair park board, and the department of tourism and develop a plan for assuming responsibility for services related to payroll, finance, budgeting, procurement, and information technology for ~~any agency~~ these agencies. The department of administration shall include in ~~the~~ each plan which services would be provided to each agency, which positions would be deleted or transferred, and the number and type of positions and associated funding that would be provided to the department of administration.

SECTION 35. Nonstatutory provisions.

(1) TERMS OF MEMBERS OF THE EMPLOYMENT RELATIONS COMMISSION. The terms of members of the employment relations commission, appointed before the effective date of this subsection, shall terminate on the effective date of this subsection.

(2) APPOINTMENT OF MEMBERS TO STATE PERSONNEL COMMISSION. Notwithstanding the advice and consent of the senate under section 15.06 (1) (intro.) of the statutes, the initial members of the state personnel commission nominated by the governor may be provisionally appointed by the governor, subject to later senate confirmation. Any provisional appointment shall be in full force until withdrawn by the governor or acted upon by the senate, and if confirmed by the senate shall continue for the remainder of the unexpired term, if any, of the member and until a successor is chosen and qualifies. A provisional appointee may exercise all the powers and duties of commission membership to which the person is appointed during the time in which the appointee qualifies. A provisional appointment made under this subsection that is withdrawn by the governor shall, upon withdrawal, lapse and create a vacancy for provisional appointment of another initial member of the state personnel commission. Any provisional appointment made under this subsection that is rejected by the senate shall upon rejection lapse and create a vacancy for nomination and appointment of another initial member of the state personnel commission. Notwithstanding the length of terms for commissioners on the state personnel commission under section 15.06 (1) (intro.) of the statutes, 1 of the initial commissioners appointed to the state personnel commission shall serve for a term expiring on March 1, 2019, 2 shall serve for a term expiring on March 1, 2021, and 2 shall serve for a term expiring on March 1, 2023.

(3) STUDY OF CLASSIFICATION SYSTEM UNDER STATE CIVIL SERVICE SYSTEM. The administrator of the division of personnel management in the department of

administration and the director of the bureau of merit recruitment and selection in the department of administration shall jointly review the classifications for all positions in the classified service of the state civil service. They shall consider the feasibility of reducing the number of classifications, as well as establishing a new system of classification, in order to increase administrative efficiency and to better meet the needs of the state civil service. The administrator and director shall submit their findings no later than July 1, 2016, to the governor and to the chief clerk of each house of the legislature, for distribution to the legislature under section 13.172 (2) of the statutes.

(4) ELIMINATION OF THE EMPLOYMENT RELATIONS COMMISSION.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the employment relations commission become the assets and liabilities of the state personnel commission.

(b) *Positions and employees.* On the effective date of this paragraph, all positions and all incumbent employees in the classified service of the state civil service holding those positions in the employment relations commission are transferred to the state personnel commission.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under chapter 230 of the statutes in the state personnel commission that they enjoyed in the employment relations commission immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

(d) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the employment relations commission is transferred to the state personnel commission.

(e) *Pending matters.* Any matter pending with the employment relations commission on the effective date of this paragraph is transferred to the state personnel commission. All materials submitted to or actions taken by the employment relations commission are considered as having been submitted to or taken by the state personnel commission.

(f) *Contracts.* All contracts entered into by the office of employment relations commission in effect on the effective date of this paragraph remain in effect and are transferred to the state personnel commission. The state personnel commission shall carry out any obligations under those contracts unless modified or rescinded by that state personnel commission to the extent allowed under the contract.

(g) *Rules and orders.* All rules promulgated by the employment relations commission in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until amended or repealed by the state personnel commission. All orders issued by the employment relations commission in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the state personnel commission.

SECTION 36. Effective date.

(1) This act takes effect on the first day of 3rd month beginning after publication.

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

LRB-2783/P2dn
RAC:emw

August 31, 2015

Senator Roth:

This version of the draft contains all of the matters I discussed with your staff at the August 24, 2015, meeting except for the Tennessee appeals process. I thought it would be helpful for us to spend some time going through the process and comparing it to the current Wisconsin process. There may be ways to further truncate the process by combining parts of Tennessee law and Wisconsin law.

Also, please note that I provided for a 3 month delayed effective date in order to provide adequate time to get the new commissioners appointed to the state personnel commission and to allow for a smooth transition for the transfer of the commission from DWD to DOA.

After you have had a chance to review the draft, we should meet to go over the material again to make certain the draft carries out your intent. We can also prepare an analysis on the next version of the draft once final decisions have been made on the key items.

Rick A. Champagne
Chief and General Counsel
(608) 266-9930
rick.champagne@legis.wisconsin.gov

Knepp, Fern

From: Vick, Jason
Sent: Friday, September 04, 2015 2:40 PM
To: Knepp, Fern; Kelley, Margit
Subject: Next drafting meeting

Fern and Margit,

I was hoping we could get together again to discuss LRB 2783 and a few changes and additions.

I will receive some additional information on Tuesday, so Wednesday morning would work great on my end – anytime between 8am until 11am.

Please let me know.

Thanks!

Jason Vick

*Office of Senator Roger Roth
608-266-0718
306-South, State Capitol*

Knepp, Fern

From: Knepp, Fern
Sent: Tuesday, September 15, 2015 8:31 AM
To: Vick, Jason
Cc: Kelley, Margit
Subject: reinstatement vs. restoration

Jason:

I came across this explanation of the reinstatement and restoration on the Wiscjobs website. As I mentioned yesterday on the phone, whether a former employee is reinstated is in the discretion on the hiring agency. The statute provides *eligibility* for reinstatement but not a right to be reinstated. On the other hand, restoration is a right to a position in the state service. I hope this is helpful.

Reinstatement: As a current or former state employee, you may be eligible to permissively reappoint without competition into a position that is in the same class in which you were previously employed, or to another classification to which you would have been eligible to transfer if there hadn't been a break in your employment, or to a class having a lower pay rate or pay range maximum for which you are qualified to perform the work after receiving customary orientation that is provided to newly hired workers in the position. The position does not have to be at the same agency from which the employee earned the reinstatement eligibility. You must not have been separated for misconduct or delinquency from the former position from which your reinstatement eligibility is derived.

The period of eligibility shall begin with the date of separation from the position in which the eligibility was earned and end with the last day of the 5th year after the date of separation.

The decision to reinstate (or not to reinstate) an employee or former employee is at the discretion of the hiring authority. If you see a vacancy that you are interested in, you may contact the respective agency human resources office to inquire as to how employees with reinstatement eligibility may apply.

Restoration: If you are a former employee who separated under certain conditions, you may have mandatory restoration rights to your former position or employing unit, or to a position in the same class in which you were previously employed and had attained permanent status. There are different types of restoration: restoration following layoff, restoration following a return from military service, and restoration following a return from the unclassified service to name a few.

Under state civil service law and code, restoration is the mandatory reappointment without competition, of (1) an employee or former employee to a position that is in the same class in which the person was previously employed and had attained permanent status; or (2) to another classification to which the person would have been eligible to transfer to if there hadn't been a break in their employment; or (3) to a class having a lower pay rate or pay range maximum for which the person is qualified to perform the work after receiving customary orientation that is provided to newly hired workers in the position. Employees only have restoration rights to the same agency in which they earned the rights.

The period of eligibility shall begin with the date of separation from the position in which the eligibility was earned and end with the last day of the 3rd year after the date of separation.

Employees who have the right of restoration are typically advised of their rights at their time of separation. Contact the agency human resources at the agency from which you separated if you separated under conditions which included restoration rights.

Fern Knepp
Legislative Attorney
Wisconsin Legislative Reference Bureau
608-261-6927

Changes + Additions to /P2 from Jason Vieh

① Add "Ban the box" language

② Create Merit Pay program, pool of \$
in DPM
10 mill - @PR
let DPM run program

③ Clarify Just Cause standard
2 tier system

See WHEBA handout
① what is just cause w/o progressive discipline

② General "just cause" after progressive discipline

③ All agencies create progressive discipline
Division sets guidelines/rules plan

④ Repeal 230.12(1)(h)

- Comp plan should not be able
to trump statutes or rules

⑤ Restoration - eliminate standard restoration
in s. 230.31(1)(b)

instead give laid off employees eligibility
for reinstatement

Reinstatement - eliminate standard eligibility
for reinstatement

Eliminate reinstatement for elected officials
s. 230.40(3)

- ④ Change probationary periods to standard 2 yrs, w/ possible waiver to 1 yr.
- ⑦ Eliminate changes to WERC
- ⑧ Add topics to review [nonstat]
- handbook
 - complan
 - feasibility of electronic personnel files
 - feasibility of uniform personnel evaluation
- ⑨ Shared Services - deadline for plans:
January 1, 2017
- ⑩ Add Appeals process - based on TN law w/ 3 levels
- ① - Appointing authority
 - ② - Administrator of DPM
 - ③ - WERC
- Include TN timing