



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2783/P3 /P4
FFK&RAC:emw&an

In 9-23 today
out or early 9-24

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to repeal** 230.12 (1) (h), 230.16 (2), 230.16 (6), 230.16 (7m) (c), 230.16 (9),
2 230.16 (10), 230.19 (2), 230.19 (3), 230.25 (1m), 230.28 (6), 230.31 (1) (a), 230.31
3 (2) and 230.40 (3); **to renumber** 230.19 (1) and 230.34 (1) (a); **to renumber and**
4 **amend** 15.225 (2), 230.01 (2), 230.16 (7) and 230.43 (1) (a); **to consolidate,**
5 **renumber and amend** 230.31 (1) (intro.) and (b); **to amend** 13.92 (3) (b),
6 36.115 (6), 62.13 (4) (d), 63.08 (1) (f) 1., 63.08 (1) (f) 2., 63.08 (1) (f) 3., 63.37, 63.39
7 (2m), 66.0509 (1), 230.04 (14), 230.08 (2) (c), 230.13 (1) (a), 230.13 (3) (b),
8 230.147 (1), 230.15 (1), 230.15 (1m) (c) 1., 230.16 (title), 230.16 (1) (a), 230.16
9 (3), 230.16 (4), 230.16 (5), 230.16 (7m) (b) 4., 230.16 (11), 230.17 (1), 230.17 (2),
10 230.18, 230.21 (1), 230.21 (2), 230.21 (3), 230.213, 230.24 (1), 230.24 (2), 230.25
11 (1), 230.25 (1n) (a) (intro.), 230.25 (2) (a), 230.25 (3) (a), 230.26 (2), 230.26 (4),
12 230.28 (1) (a), 230.28 (1) (am), 230.28 (1) (b), 230.28 (1) (c), 230.32 (4), 230.34
13 (1) (am), 230.34 (1) (ax) 2., 230.34 (2) (a), 230.34 (2) (b), 230.35 (3) (d), 230.43
14 (1) (title), 230.43 (1) (b), 230.43 (1) (c), 230.43 (1) (d), 230.43 (1) (e), 230.43 (5),
15 230.44 (1) (c) and 321.65 (3) (g); **to create** 20.865 (1) (dm), 20.928 (1f), 230.01

1 (2) (bm), 230.01 (2) (bp), 230.03 (12m), 230.04 (13m), 230.04 (19), 230.06 (1) (m),
2 230.06 (4), 230.06 (5), 230.13 (3) (c), 230.15 (5), 230.15 (6), 230.15 (7), 230.16 (1)
3 (ap), 230.25 (2) (am), 230.34 (1) (a) 2. and 3. and 230.445 of the statutes; and **to**
4 **affect** 2015 Wisconsin Act 55, section 9101 (5n) (a) and 2015 Wisconsin Act 55,
5 section 9101 (5n) (b); **relating to:** state civil service and making an
6 appropriation.

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:

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

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

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

3 15.105 (7) EMPLOYMENT RELATIONS COMMISSION. There is created an
4 employment relations commission which is attached to the department of workforce
5 development administration under s. 15.03, except the budget of the employment
6 relations commission shall be transmitted by the department to the governor
7 without change or modification by the department, unless agreed to by the
8 employment relations commission.

9 SECTION 3. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
10 the following amounts for the purposes indicated:

| | | 2015-16 | 2016-17 |
|----|-------------------------------------------|-------------------|------------------------|
| 11 | | | |
| 12 | 20.865 Program supplements | | |
| 13 | (1) EMPLOYEE COMPENSATION AND SUPPORT | | |
| 14 | (dm) <i>Discretionary merit compensa-</i> | | |
| 15 | <i>tion program</i> | GPR A \$5,000,000 | -0- 9/2/16 \$5,000,000 |

***NOTE: Is it your intent that DPM would provide money out of this appropriation
in the 2015-16 fiscal year or should all of the money be in the second year of the biennium?

16 SECTION 4. 20.865 (1) (dm) of the statutes is created to read:

17 20.865 (1) (dm) *Discretionary merit compensation program*. The amounts in
18 the schedule to supplement the appropriations to state agencies for the cost of
19 discretionary merit compensation awards approved by the division of personnel
20 management in the department of administration under s. 20.928 (1f).

21 SECTION 5. 20.928 (1f) of the statutes is created to read:

22 20.928 (1f) Each state agency head shall certify to the administrator of the
23 division of personnel management in the department of administration, at such time

SECTION 5

1 and in such manner as the administrator prescribes, the sum of money needed from
2 the appropriations under s. 20.865 (1) (dm) for the state agency to make lump sum
3 discretionary merit compensation awards to its classified employees. Upon receipt
4 of the certifications together with such additional information as the administrator
5 prescribes, the administrator shall determine the amounts required from the
6 appropriation to supplement state agency budgets. The administrator may not
7 approve an agency request for money from the appropriation under s. 20.865 (1) (dm)
8 for a discretionary merit award that increases an employee's base compensation.

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

10 36.115 (6) All system employees holding positions in the classified or
11 unclassified service of the civil service system under ch. 230 on June 30, 2015, shall
12 be included in the personnel systems developed under subs. (2) and (3). System
13 employees holding positions in the classified service on June 30, 2015, who have
14 achieved permanent status in class on that date, shall retain, while serving in the
15 positions in the system, those protections afforded employees in the classified service
16 under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension, discharge,
17 layoff, or reduction in base pay. ~~Such employees shall also have reinstatement~~
18 ~~privileges to the classified service as provided under s. 230.31 (1).~~ System employees
19 holding positions in the classified service on June 30, 2015, who have not achieved
20 permanent status in class on that date are eligible to receive the protections,
21 privileges, and rights preserved under this subsection if they successfully complete
22 service equivalent to the probationary period required in the classified service for the
23 positions which they hold on that date.

24 **SECTION 7.** 62.13 (4) (d) of the statutes is amended to read:

1 62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and
2 under 55 years of age, with proper limitations as to health and, subject to ss. 111.321,
3 111.322, and 111.335, arrest and conviction record. The examination, including
4 minimum training and experience requirements, shall be job-related in compliance
5 with appropriate validation standards and shall be subject to the approval of the
6 board and may include tests of manual skill and physical strength. All relevant
7 experience, whether paid or unpaid, shall satisfy experience requirements. The
8 board shall control examinations and may designate and change examiners, who
9 may or may not be otherwise in the official service of the city, and whose
10 compensation shall be fixed by the board and paid by the city. Veterans and their
11 spouses shall be given preference points in accordance with s. ~~230.16 (7)~~ 63.08 (1)
12 (fm).

13 **SECTION 8.** 63.08 (1) (f) 1. of the statutes is amended to read:

14 63.08 (1) (f) 1. The commission may not impose any restriction as to age on any
15 veteran who is applying or eligible for a position under this section. The commission
16 shall give preference points to veterans and their spouses under ~~s. 230.16 (7)~~ par.
17 (fm), except as provided under subd. 2.

18 **SECTION 9.** 63.08 (1) (f) 2. of the statutes is amended to read:

19 63.08 (1) (f) 2. ~~Notwithstanding s. 230.16 (7), persons~~ Persons shall be certified
20 from the eligible list under s. 63.05 (1) (b) without adding any preference points to
21 any person's grade.

22 **SECTION 10.** 63.08 (1) (f) 3. of the statutes is amended to read:

23 63.08 (1) (f) 3. After the certification under subd. 2., any veteran or veteran's
24 spouse whose grade, plus the points to which the veteran or spouse is entitled under
25 ~~s. 230.16 (7)~~ par. (fm), is equal to or higher than the lowest grade on the list made

1 under subd. 2. shall be added to the certification list under s. 63.05 (1) (b). The
2 number of persons added to a certification list under this subdivision may not exceed
3 the number of persons initially certified under subd. 2.

4 **SECTION 11.** 63.37 of the statutes is amended to read:

5 **63.37 Board to keep a register of eligibles.** From the returns or reports of
6 the examiners, or from the examinations made by the board, the board shall prepare
7 and keep a register for each grade or class of position in the service of such city, of
8 the persons whose general average standing upon examinations for such grade or
9 class is not less than the minimum fixed by the rules of such board, and who are
10 otherwise eligible, and such persons shall take rank upon the register as candidates
11 in the order of their relative excellence as determined by examination without
12 reference to priority of time of examination. The board shall impose no restrictions
13 as to age in case of veterans, and veterans and their spouses shall be given preference
14 points in accordance with s. ~~230.16 (7)~~ 63.08 (1) (fm).

15 **SECTION 12.** 63.39 (2m) of the statutes is amended to read:

16 **63.39 (2m)** Notwithstanding s. ~~230.16 (7)~~ 63.08 (1) (fm), the board shall certify
17 persons from the list of eligibles without adding preference points to their grades.
18 After the certification under sub. (1) or (2), the board shall add to the certification list
19 any veteran or veteran's spouse whose grade, plus the points to which the veteran
20 or spouse is entitled under s. ~~230.16 (7)~~ 63.08 (1) (fm), is equal to or higher than the
21 lowest grade on the list of eligibles.

22 **SECTION 13.** 66.0509 (1) of the statutes is amended to read:

23 **66.0509 (1)** Any city or village may proceed under s. 61.34 (1), 62.11 (5) or
24 66.0101 to establish a civil service system of selection, tenure and status, and the
25 system may be made applicable to all municipal personnel except the chief executive

1 and members of the governing body, members of boards and commissions including
2 election officials, employees subject to s. 62.13, members of the judiciary and
3 supervisors. Any town may establish a civil service system under this subsection.
4 For veterans there shall be no restrictions as to age, and veterans and their spouses
5 shall be given preference points in accordance with s. ~~230.16(7)~~ 63.08 (1) (fm). The
6 system may also include uniform provisions in respect to attendance, leave
7 regulations, compensation and payrolls for all personnel included in the system. The
8 governing body of any city, village or town establishing a civil service system under
9 this section may exempt from the system the librarians and assistants subject to s.
10 43.09 (1).

11 **SECTION 14.** 230.01 (2) of the statutes is renumbered 230.01 (2) (a) and
12 amended to read:

13 230.01 (2) (a) It is the policy of the state and the responsibility of the director
14 and the administrator to maintain a system of personnel management which fills
15 positions in the classified service through methods which apply the merit principle,
16 with adequate civil service safeguards.

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

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

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

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

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

8 SECTION 15. 230.01 (2) (bm) of the statutes is created to read:

9 230.01 (2) (bm) It is the policy of this state to recruit, select, and promote
10 employees based on their relative skills, abilities, competencies, and knowledge,
11 including using open processes to consider qualified applicants for initial
12 employment.

13 SECTION 16. 230.01 (2) (bp) of the statutes is created to read:

14 230.01 (2) (bp) It is the policy of this state to retain employees on the basis of
15 the adequacy of their performance, to correct inadequate performance when possible
16 and appropriate, and to separate employees whose performance and personal
17 conduct is inadequate, unsuitable, or inferior.

18 SECTION 17. 230.03 (12m) of the statutes is created to read:

19 230.03 (12m) "Service member" means a person who is serving on active duty
20 in the U.S. armed forces, national guard, or state defense force.

21 SECTION 18. 230.04 (13m) of the statutes is created to read:

22 230.04 (13m) The administrator shall establish standards for progressive
23 discipline plans to be prepared by all agencies and applied to all employees in the
24 classified service. The standards shall state the time periods within which these
25 plans shall be prepared.

*include progressive for
address discipline personal
conduct and work performance that
is inadequate, unsuitable, or inferior.*

1 SECTION 19. 230.04 (14) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.04 (14) The Except as provided in s. 230.445, the administrator shall
4 establish, by rule, the scope and minimum requirements of a state employee
5 grievance procedure relating to conditions of employment.

6 SECTION 20. 230.04 (19) of the statutes is created to read:

7 230.04 (19) The administrator shall develop and implement a discretionary
8 merit award program to distribute money under s. 20.928 (1f) to agencies for ~~lump~~^{the}
9 ~~sum discretionary merit awards.~~ *purpose of providing lump sum monetary awards to employees whose job performance has exceeded agency expectations.*

****NOTE: This language creates a duty for the administrator of DPM to develop and implement a discretionary merit award program. Please let me know if you would like to include more details about what DPM must include in the program.

****NOTE: Also, please let me know if you would like any of the new duties assigned to the DPM administrator to be assigned to the director of the bureau of merit recruitment.

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10 SECTION 21. 230.06 (1) (m) of the statutes is created to read:

11 230.06 (1) (m) Prepare a progressive discipline plan which complies with the
12 standards established by the administrator under s. 230.04 (13m).

13 SECTION 22. 230.06 (4) of the statutes is created to read:

14 230.06 (4) An appointing authority shall conduct an annual performance
15 evaluation of each employee appointed by the appointing authority. *If an annual*
16 *evaluation is not practical or suitable for evaluating the performance of the*
17 *employee, the appointing authority may conduct the performance evaluation at least*
18 *once in each 18-month period.*

19 SECTION 23. 230.06 (5) of the statutes is created to read:

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Unless otherwise ordered by a court or during the grievance process under s. 230.445, by the appointing authority, administrator, or commission, or unless otherwise agreed to in a settlement agreement,

1 230.06 (5) An appointing authority shall maintain permanently an employee's
2 disciplinary records in the employee's personnel file. Disciplinary records may not
3 be removed from an employee's personnel file.

4 SECTION 24. 230.08 (2) (c) of the statutes is amended to read:

5 230.08 (2) (c) The director, associate director, and state historian of the
6 historical society; and, with the approval of the board of curators and the
7 administrator, such number of specialists as are required by the society for specific
8 research, writing, collecting, or editing projects which for a limited period of time not
9 to exceed 2 years, renewable at the discretion of the board of curators and the
10 administrator for an additional 2-year period, require persons with particular
11 training or experience in a specialized phase or field of history, historical research,
12 writing, collecting, or editing, and any persons whose entire salary is paid from funds
13 reappropriated to the society by s. 20.245 (1) (r) where a competitive examination
14 process is impractical.

15 SECTION 25. 230.12 (1) (h) of the statutes is repealed.

16 SECTION 26. 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 ^{examination} scores and rankings.

19 SECTION 27. 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 28. 230.13 (3) (c) of the statutes is created to read:

1 230.13 (3) (c) The administrator and the director shall provide an appointing
2 authority with access to the personnel files of any individual who currently holds a
3 position whom the appointing authority intends to make an offer of employment.

4 **SECTION 29.** 230.147 (1) of the statutes is amended to read:

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

15 **SECTION 30.** 230.15 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
16 is amended to read:

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

23 **SECTION 31.** 230.15 (1m) (c) 1. of the statutes, as affected by 2015 Wisconsin
24 Act 55, is amended to read:

SECTION 31

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

5 **SECTION 32.** 230.15 (5) of the statutes is created to read:

6 230.15 (5) No later than 30 days after receiving from the director a list of names
7 of individuals who are certified for appointment to a vacant position, the appointing
8 authority shall make every effort to make an offer of employment for the position.

9 **SECTION 33.** 230.15 (6) of the statutes is created to read:

10 230.15 (6) Annually, each appointing authority shall submit a report to the
11 director and the administrator indicating the number of days it took to make an offer
12 of employment for a vacant position after receiving from the director a list of names
13 of individuals who are certified for appointment to the position.

14 **SECTION 34.** 230.15 (7) of the statutes is created to read:

15 230.15 (7) An appointing authority may not make an offer of employment to
16 any individual who currently holds a position unless the appointing authority has
17 reviewed the personnel file of the individual.

18 **SECTION 35.** 230.16 (title) of the statutes is amended to read:

19 **230.16 (title) Applications and examinations resumes.**

20 **SECTION 36.** 230.16 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

22 230.16 (1) (a) The director shall require persons applying for admission to any
23 ~~examination under this subchapter or under the rules of the director~~ a position in the
24 civil service to file an application and resume with the bureau a reasonable time prior
25 to the proposed examination.

10 Except as provided in subd. 2,

1 SECTION 37. 230.16 (1) (ap) of the statutes is created to read:

2 230.16 (1) (ap) The administrator may not request a person applying for a
3 position in the civil service, on an application or otherwise, to supply information
4 regarding the conviction record of the applicant, or otherwise inquire into or consider
5 the conviction record of the applicant before the applicant has been certified for the
6 position. This paragraph does not prohibit the administrator from notifying an
7 applicant for a position in the civil service that, by law or policy, a particular
8 conviction record may disqualify an applicant from employment in a particular
9 position.

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10 SECTION 38. 230.16 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
11 is repealed.

12 SECTION 39. 230.16 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
13 is amended to read:

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

21 SECTION 40. 230.16 (4) of the statutes is amended to read:

22 230.16 (4) All ~~examinations~~ eligibility requirements, including minimum
23 training and experience requirements, for positions in the classified service shall be
24 job-related in compliance with appropriate validation standards and shall be subject

1 to the approval of the administrator. All relevant experience, whether paid or
2 unpaid, shall satisfy experience requirements.

3 **SECTION 41.** 230.16 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
4 is amended to read:

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

14 **SECTION 42.** 230.16 (6) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is repealed.

16 **SECTION 43.** 230.16 (7) of the statutes is renumbered 63.08 (1) (fm), and 63.08
17 (1) (fm) 1. (intro.) and 2., as renumbered, are amended to read:

18 63.08 (1) (fm) 1. (intro.) A preference shall be given to those veterans and to
19 those spouses of veterans specified in subds. 1. ~~to 6.~~ a. to f. who gain eligibility on any
20 competitive employment register and who do not currently hold a permanent
21 appointment or have mandatory restoration rights to a permanent appointment to
22 any position. A preference means the following:

23 2. An applicant who is certified for a position after receiving a preference under
24 ~~par. (a) 4., 5. or 6. subd. 1. d., e., or f.~~ and who is appointed to that position may not

1 obtain a preference under ~~par. (a) 4., 5. or 6. subd. 1. d., e., or f.~~ for any other civil
2 service position for which the applicant subsequently applies.

3 **SECTION 44.** 230.16 (7m) (b) 4. of the statutes is amended to read:

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

7 **SECTION 45.** 230.16 (7m) (c) of the statutes, as affected by 2015 Wisconsin Act
8 55, is repealed.

9 **SECTION 46.** 230.16 (9) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is repealed.

11 **SECTION 47.** 230.16 (10) of the statutes is repealed.

12 **SECTION 48.** 230.16 (11) of the statutes, as affected by 2015 Wisconsin Act 55,
13 is amended to read:

14 230.16 (11) Records of ~~examinations~~ applicants, including a resume,
15 application, and a transcript or recorded tape of oral ~~examinations~~ evaluations,
16 given under this subchapter shall be retained for at least one year. Inspection of such
17 records shall be regulated by rules of the director.

18 **SECTION 49.** 230.17 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

20 230.17 (1) The director shall provide by rule, the conditions, not otherwise
21 provided by law, under which an applicant eligible may be refused ~~examination or~~
22 ~~reexamination~~, ~~or an eligible refused certification.~~ These conditions shall be based
23 on sufficient reason and shall reflect sound technical personnel management
24 practices and those standards of conduct, deportment and character necessary and
25 demanded to the orderly, efficient and just operation of the state service.

1 **SECTION 50.** 230.17 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.17 (2) If the director refuses to ~~examine an applicant, or after an~~
4 ~~examination~~ to certify an eligible, as provided in this section, the director, if
5 requested by the applicant so rejected within 10 days of the date of receipt of the
6 notice of rejection, shall give the applicant a full and explicit statement of the exact
7 cause of such refusal to ~~examine or~~ to certify. Applicants may appeal to the
8 commission the decision of the director to refuse to ~~examine or~~ certify under s. 230.44
9 (1) (a). Upon request of an applicant or an eligible for a civil service position who has
10 a disability, the department of health services shall obtain from the director a
11 detailed description of all duties entailed by such position and shall determine and
12 report its findings to the director, as to the ability of the applicant, or eligible, to
13 perform the duties of such position. Such findings shall be conclusive as to the
14 qualifications of any applicant, or eligible, so examined. A notice of rejection shall
15 notify an applicant or eligible of his or her rights under this subsection.

16 **SECTION 51.** 230.18 of the statutes, as affected by 2015 Wisconsin Act 55, is
17 amended to read:

18 ^{no strike} **230.18 Discrimination prohibited.** No question in any form of application
19 ~~or in any examination~~ ^{oral evaluation} may be so framed as to elicit information concerning the
20 partisan political or religious opinions or affiliations of any applicant nor may any
21 inquiry be made concerning such opinions or affiliations and all disclosures thereof
22 shall be discountenanced except that the director may evaluate the competence and
23 impartiality of applicants for positions such as clinical chaplain in a state
24 institutional program. No discriminations may be exercised in the recruitment,
25 application, ~~examination~~ or hiring process against or in favor of any person because

1 of the person's political or religious opinions or affiliations or because of age, sex,
2 disability, race, color, sexual orientation, national origin, or ancestry except as
3 otherwise provided.

4 **SECTION 52.** 230.19 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
5 is renumbered 230.19.

6 **SECTION 53.** 230.19 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is repealed.

8 **SECTION 54.** 230.19 (3) of the statutes is repealed.

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

11 230.21 (1) Subject to s. 230.275, the director may, to meet the needs of the
12 service, establish separate recruitment, ~~examination~~ and certification procedures
13 for filling positions in unskilled labor and service classes.

14 **SECTION 56.** 230.21 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

16 230.21 (2) The director may designate classifications in which applicants are
17 in critically short supply and may develop such recruitment, ~~examination~~ and
18 certification processes as will provide agencies with prompt certification when
19 qualified applicants can be found, provided that due notice has been given and proper
20 competitive standards have been maintained.

21 **SECTION 57.** 230.21 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is amended to read:

23 230.21 (3) The director shall designate classifications in prison industries in
24 the department of corrections as critical positions requiring expeditious hiring and
25 shall develop such recruitment, ~~examination~~ and certification processes as will

1 provide the department with prompt certification when qualified applicants can be
2 found, provided that due notice has been given and proper competitive standards
3 have been maintained.

4 **SECTION 58.** 230.213 of the statutes, as affected by 2015 Wisconsin Act 55, is
5 amended to read:

6 **230.213 Affirmative action procedures for corrections positions.** The
7 director may, to meet affirmative action objectives, establish such recruitment,
8 ~~examination~~ and certification procedures for positions in the department of
9 corrections as will enable the department of corrections to increase the number of
10 employees of a specified gender or a specified racial or ethnic group in those positions.
11 The director shall design the procedures to obtain a work force in the department of
12 corrections that reflects the relevant labor pool. The director may determine the
13 relevant labor pool from the population of the state or of a particular geographic area
14 of the state, whichever is more appropriate for achieving the affirmative action
15 objective.

16 **SECTION 59.** 230.24 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
17 is amended to read:

18 **230.24 (1)** The administrator may by rule develop a career executive program
19 that emphasizes excellence in administrative skills in order to provide agencies with
20 a pool of highly qualified executive candidates, to provide outstanding
21 administrative employees a broad opportunity for career advancement, and to
22 provide for the mobility of such employees among the agencies and units of state
23 government for the most advantageous use of their managerial and administrative
24 skills. To accomplish the purpose of this program, the director may provide policies
25 and standards for recruitment, ~~examination~~, probation, employment register

1 control, certification, transfer, promotion, and reemployment, and the director may
2 provide policies and standards for classification and salary administration, separate
3 from procedures established for other employment. The administrator shall
4 determine the positions which may be filled from career executive employment
5 registers.

6 **SECTION 60.** 230.24 (2) of the statutes is amended to read:

7 230.24 (2) A vacancy in a career executive position may be filled through an
8 open competitive ~~examination~~ hiring process, a competitive promotional
9 ~~examination process~~, or by restricting competition to employees in career executive
10 positions in order to achieve and maintain a highly competent work force in career
11 executive positions, with due consideration given to affirmative action. The
12 appointing authority shall consider the guidelines under s. 230.19 when deciding
13 how to fill a vacancy under this ~~paragraph~~ subsection.

14 **SECTION 61.** 230.25 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

16 230.25 (1) Appointing authorities shall give written notice to the director of any
17 vacancy to be filled in any position in the classified service. The director shall certify,
18 under this subchapter and the rules of the director, from the register of eligibles
19 appropriate for the kind and type of employment, the grade and class in which the
20 position is classified, any number of names at the head thereof. In determining the
21 number of names to certify, the director shall use statistical methods and personnel
22 management principles that are designed to maximize the number of certified names
23 that are appropriate for filling the specific position vacancy. Up to 2 persons
24 considered for appointment 3 times and not selected may be removed from the

1 register for each 3 appointments made. ~~Certification under this subsection shall be~~
2 ~~made before granting any preference under s. 230.16 (7).~~

3 **SECTION 62.** 230.25 (1m) of the statutes is repealed.

4 **SECTION 63.** 230.25 (1n) (a) (intro.) of the statutes, as affected by 2015
5 Wisconsin Act 55, is amended to read:

6 230.25 (1n) (a) (intro.) After certifying names under subs. (1), and (1g) and
7 ~~(1m)~~, the director may engage in expanded certification by doing one or more of the
8 following:

9 **SECTION 64.** 230.25 (2) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is amended to read:

11 230.25 (2) (a) When certifying names to appointing authorities under this
12 section, the director shall specify whether the certification includes spouses of
13 service members, qualifying veterans, or persons the hiring of whom would serve
14 affirmative action purposes, without divulging the names of those individuals. ~~The~~
15 ~~director shall not disclose any applicant's test score, with or without the addition of~~
16 ~~veterans preference points under s. 230.16 (7), to the appointing authority.~~

17 **SECTION 65.** 230.25 (2) (am) of the statutes is created to read:

18 230.25 (2) (am) 1. If the certification list for a position includes a veteran or
19 spouse of a service member and the appointing authority extends invitations to
20 interview candidates for the position, the appointing authority shall extend an
21 invitation to interview to the veteran or spouse of a service member.

22 2. If a veteran or spouse of a service member is included on a certification list
23 and if the minimum qualifications and the skills, abilities, competencies, and
24 knowledge of the veteran or spouse of a service member and any other applicant

1 being interviewed for the position are equal, the appointing authority shall give a
2 preference to the veteran or spouse of a service member for the position.

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

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

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

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

19 **SECTION 66.** 230.25 (3) (a) of the statutes is amended to read:

20 230.25 (3) (a) Subject to par. (b), the term of eligibility on original entrance and
21 promotional registers is 6 months and thereafter the register expires but may be
22 reactivated by the administrator for up to 3 years from the date of the establishment
23 of the register. ~~Except as provided in ss. 230.28 and 230.34, the eligibility of~~
24 ~~individuals for reinstatement is 5 years and the eligibility of individuals for~~
25 ~~restoration is 3 years.~~

***NOTE: This seems to be a cross-reference to the privileges and rights under s. 230.31. If you want to keep this language, it should probably be modified to say the eligibility for individuals on layoff status for reinstatement is 3 years.

1 **SECTION 67.** 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 68.** 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 69.** 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~~ 2 years, 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.

****NOTE: Is maintaining the possibility of a 3-month extension consistent with
your intent?

14 **SECTION 70.** 230.28 (1) (am) of the statutes is amended to read:

15 230.28 (1) (am) All probationary periods for employees in supervisory or
16 management positions are ~~one-year~~ 2 years unless waived after ~~6 months~~ one year
17 under par. (c). The waiver under par. (c) may be exercised for an employee in a
18 supervisory position only if the employee has successfully completed a supervisory
19 development program under s. 230.046 (2). However, persons who transfer or are
20 reinstated to supervisory or management positions consistent with conditions under
21 sub. (4) and who had previously obtained permanent status in class in a supervisory
22 or management position prior to the transfer or reinstatement shall serve a
23 probationary period in accordance with sub. (4).

SECTION 71

change
imposed
2

repealed
SECTION 71. 230.28 (1) (b) of the statutes, as affected by 2015 Wisconsin Act 55,

is amended to read:

230.28 (1) (b) The director may authorize a longer probationary period not to exceed ~~2~~ 3 years for any administrative, technical or professional position, in order to provide the appointing authority assurance that the employee has had adequate exposure to the various responsibilities which are a part of the position or classification.

***NOTE: What would you like the cap to be under this provision? It needs to be increased since, under the draft, the standard probationary period is 2 years.

SECTION 72. 230.28 (1) (c) of the statutes, as affected by 2015 Wisconsin Act 55, 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.

SECTION 73. 230.28 (6) of the statutes is repealed.

SECTION 74. 230.31 (1) (intro.) and (b) of the statutes, as affected by 2015 Wisconsin Act 55, are consolidated, renumbered 230.31 and amended to read:

230.31 Restoration of employment and reinstatement Reinstatement privileges. Any person who has held a position and obtained permanent status in a class under the civil service law and rules and who ~~has separated from the service~~ without any delinquency or misconduct on his or her part but owing to reasons of economy or otherwise is on layoff status shall be granted the following considerations: (b) For eligible for reinstatement in a position having a comparable or lower pay rate or range for which such person is qualified for a 3-year period from the date of separation, if on the layoff status, the person shall be placed, in inverse

1 ~~order of layoff, on an appropriate mandatory restoration register for the unit used~~
2 ~~for layoff and on a restoration register for the agency from which the person was laid~~
3 ~~off. Use of such registers shall be subject to the rules of the director.~~

4 SECTION 75. 230.31 (1) (a) of the statutes is repealed.

5 SECTION 76. 230.31 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
6 is repealed.

7 SECTION 77. 230.32 (4) of the statutes, as affected by 2015 Wisconsin Act 55,
8 is amended to read:

9 230.32 (4) Any person appointed to fill the position of an employee on such
10 military or civilian leave shall be designated as a substitute or replacement employee
11 and upon the return and reemployment of the original employee the substitute
12 employee shall be transferred to a similar position with the same employing agency
13 if one is available, or if not, he or she shall be eligible for reinstatement ~~or have the~~
14 ~~right of restoration~~ in accordance with this subchapter and the rules of the director.
15 The status of any person who is appointed to fill the place of an employee on military
16 or civilian leave under this section shall be governed by the rules of the director
17 pursuant thereto.

****NOTE: This means that the substitute or replacement employee is only eligible
for reinstatement if he or she is on layoff status. Okay?

ENS
25-18

18 SECTION 78. 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (a) 1.

19 SECTION 79. 230.34 (1) (a) 2. and 3. of the statutes are created to read:

20 230.34 (1) (a) 2. It is just cause to remove, suspend without pay, discharge,
21 reduce the base pay of, or demote an employee with permanent status in class or an
22 employee who has served with the state as an assistant district attorney or an

Section #. 230.34 (1)(a) 1. to 9. are created to read: *of the stat.*

1 assistant state public defender for a continuous period of 12 months or more without
2 progressive discipline for any of the following:

3 a. *1. Harassing a person while on duty.*
Harassment of another employee.

****NOTE: This language would not cover harrassment of an individual using the agency's services. Okay? This concept also applies to the physical harm provision below.

4 b. *2. Intentionally inflicting physical harm on another person while on duty.*
Intentionally inflicting physical harm on an employee.

5 c. *3. While on duty, being intoxicated or under the influence of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).*
While on duty, being intoxicated or under the influence of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

8 d. *4. While on duty, being in possession of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), without a prescription.*
While on duty, being in possession of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), without a prescription.

11 e. *5. Unless directed by the employee's supervisor, falsifying records of the agency.*
Unless directed by the employee's supervisor, falsifying records of the agency.

****NOTE: In the UI statute, the language is "unless directed by the employee's employer." Is "supervisor" the correct replacement for "employer" in this context or do you prefer "appointing authority" or "agency"?

12 f. *6. Theft of agency property or services with intent to deprive an agency of the property or services permanently, theft of currency of any value, felonious conduct connected with the employee's employment with the agency, or intentional or negligent conduct by an employee that causes substantial damage to agency property.*
Theft of agency property or services with intent to deprive an agency of the property or services permanently, theft of currency of any value, felonious conduct connected with the employee's employment with the agency, or intentional or negligent conduct by an employee that causes substantial damage to agency property.

17 g. *7. A conviction of an employee of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the employee to perform the duties that the employee performs for the agency.*
A conviction of an employee of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the employee to perform the duties that the employee performs for the agency.

20 h. *8. Misuse or abuse of agency property, including the intentional use of an educational agency's equipment to download, view, solicit, seek, display, or distribute pornographic material.*
Misuse or abuse of agency property, including the intentional use of an educational agency's equipment to download, view, solicit, seek, display, or distribute pornographic material.

22
Ins
26-22

1 3. It is just cause to remove, suspend without pay, discharge, reduce the base
 2 pay of, or demote an employee with permanent status in class or an employee who
 3 has served with the state as an assistant district attorney or an assistant state public
 4 defender for a continuous period of 12 months or more after progressive discipline
 5 if the employee's work performance or personal conduct is inadequate, unsuitable,
 6 or inferior, as determined by the appointing authority.

7 **SECTION 80.** 230.34 (1) (am) of the statutes is amended to read:

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

17 **SECTION 81.** 230.34 (1) (ax) 2. of the statutes is amended to read:

18 230.34 (1) (ax) 2. ~~Engaging in any action under subd. 1. constitutes just cause~~
 19 is grounds for discharge without progressive discipline.

20 **SECTION 82.** 230.34 (2) (a) of the statutes is amended to read:

21 230.34 (2) (a) ~~The An~~ An appointing authority shall determine the order of layoff
 22 of such employees may be determined by ^{primarily} based on merit, disciplinary records,
 23 seniority, or and performance or a combination thereof or by other factors. The
 24 appointing authority shall submit a plan for layoffs under this section to the division.

THS
27-24

1 SECTION 83. 230.34 (2) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.34 (2) (b) The director shall promulgate rules governing layoffs and
4 appeals therefrom and alternative procedures in lieu of layoff to include voluntary
5 and involuntary demotion and the exercise of a displacing right to a comparable or
6 lower class, as well as the subsequent employee right of restoration or eligibility for
7 reinstatement.

8 SECTION 84. 230.35 (3) (d) of the statutes, as affected by 2015 Wisconsin Act 55,
9 is amended to read:

10 230.35 (3) (d) Employees of the state are entitled to reasonable paid leaves of
11 absence to compete in promotional examinations and interviews. The administrator
12 shall promulgate rules governing the lengths of time allowable for such leaves, their
13 frequency and the provisions for their use.

14 SECTION 85. 230.40 (3) of the statutes is repealed.

15 SECTION 86. 230.43 (1) (title) of the statutes is amended to read:

16 230.43 (1) (title) ~~OBSTRUCTION~~ HIRING PROCESS; OBSTRUCTION OR FALSIFICATIONS
17 ~~OF EXAMINATIONS.~~

18 SECTION 87. 230.43 (1) (a) of the statutes is renumbered 230.43 (1) (intro.) and
19 amended to read:

20 230.43 (1) (intro.) Any person who willfully, alone or in cooperation with one
21 or more persons, defeats does any of the following is, for each offense, guilty of a
22 misdemeanor:

23 (am) Willfully defeats, deceives or obstructs any person in respect of the rights
24 of examination application or registration under this subchapter or any rules
25 prescribed pursuant thereto, or.

IRS
2-8-14

1 **SECTION 88.** 230.43 (1) (b) of the statutes is amended to read:

2 230.43 (1) (b) ~~Who willfully,~~ Willfully or corruptly, falsely marks, grades,
3 estimates, or reports upon ~~the examination~~ an application or resume, or proper
4 standing of any person ~~examined~~ evaluated, registered, or certified, pursuant to this
5 subchapter, or aids in so doing, ~~or.~~

6 **SECTION 89.** 230.43 (1) (c) of the statutes is amended to read:

7 230.43 (1) (c) ~~Who willfully~~ Willfully or corruptly makes any false
8 representations concerning the same, or concerning ~~the person examined~~ an
9 applicant, ~~or.~~

10 **SECTION 90.** 230.43 (1) (d) of the statutes is amended to read:

11 230.43 (1) (d) ~~Who willfully~~ Willfully or corruptly furnishes any person any
12 special or secret information for the purpose of either improving or injuring the
13 prospects or chances of any persons so ~~examined~~ evaluated, registered, or certified,
14 being appointed, employed, or promoted, ~~or.~~

15 **SECTION 91.** 230.43 (1) (e) of the statutes is amended to read:

16 230.43 (1) (e) ~~Who personates~~ Personates any other person, or permits or aids
17 in any manner any other person to personate him or her in connection with any
18 ~~examination,~~ registration, application, or request to be ~~examined~~ evaluated or
19 registered, ~~shall for each offense be guilty of a misdemeanor.~~

20 **SECTION 92.** 230.43 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

22 230.43 (5) **TAXPAYERS' SUITS.** The right of any taxpayer to bring any action to
23 restrain the payment of compensation to any person appointed to or holding any
24 office or place of employment in violation of this subchapter shall not be limited or
25 denied by reason of the fact that the office or place of employment has been classified

1 as, or determined to be, not subject to a competitive examination hiring process;
2 however, any judgment or injunction in any such action shall be prospective only, and
3 shall not affect payments already made or due to such persons by the proper
4 disbursing officers, in accordance with the rules of the administrator in force at the
5 time of such payments.

6 SECTION 93. 230.44 (1) (c) of the statutes is amended to read:

7 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employee has
8 permanent status in class, or an employee has served with the state as an assistant
9 district attorney or an assistant state public defender for a continuous period of 12
10 months or more, the employee may appeal a demotion, layoff, suspension, discharge
11 or reduction in base pay to the commission as the final step in the state employee
12 grievance ~~procedure~~ process established under s. ~~230.04 (14)~~ 230.445, if the appeal
13 alleges that the decision was not based on just cause.

14 SECTION 94. 230.445 of the statutes is created to read:

15 **230.445 Grievance process for demotion, suspension, discharge,**
16 **layoff, or reduction in base pay. (1)** In this section, an “adverse employment
17 decision” means a decision to demote, layoff, suspend, ^{without pay} discharge, or reduce the base
18 pay of an employee.

****NOTE: The grievance procedure under the current compensation plan also covers a denial of hazardous employment benefits under s. 230.36. The procedure in the compensation plan also applies to an action where an employee alleges the employer abused its discretion in applying written agency rules, policies, or procedures, but only through the second step of the grievance procedure. Please let ne know if you would like to expand the scope of this grievance process.

19 (2) An employee may file a complaint under this section concerning the
20 application of a law, rule, or policy to an adverse employment decision against the
21 employee. If an employee does not file a complaint or an appeal by an applicable

1 deadline under sub. (3), the employee waives his or her right to appeal the adverse
2 employment decision under this chapter.

****NOTE: This language is based on Tennessee law. Is it consistent with your
intent? Also please note, Tennessee law does not allow executive service employees to use
the appeal process. Please let me know if you would like to include a similar restriction.

3 (3) (a) 1. To commence the grievance process for an adverse employment action,
4 an employee shall file a complaint with the employee's appointing authority
5 challenging ^{the} an adverse employment decision against the employee no later than 14
6 days after the employee becomes aware of, or should have become aware of, the
7 decision that is the subject of the complaint.

8 2. An appointing authority, or his or her designee, who receives a timely
9 complaint under subd. 1. shall conduct any investigation he or she considers
10 necessary, meet with with the employee in person, and issue a decision, in writing,
11 not later than 14 days after the date of which the appointing authority, or his or her
12 designee, received the employee's complaint. If the appointing authority does not
13 issue a written decision within 15 days after receiving the employee's complaint, the
14 employee may appeal to the administrator under par. (b).

15 (b) 1. If an appointing authority does not find in favor of the employee under
16 par. (a), the employee may appeal the appointing authority's decision by filing a
17 complaint with the administrator. The employee may file a complaint under this
18 subdivision no later than 14 days after the date of the appointing authority's
19 decision.

20 2. If the administrator receives a timely complaint under subd. 1., the
21 administrator shall review the complaint and the appointing authority's written
22 decision, and shall issue a decision, in writing, no later than 30 days after the date
23 the employee filed a complaint with the administrator. If the administrator does not

1 issue a written decision within 31 days after receiving the employee's complaint, the
2 employee may appeal to the commission under par. (c).

3 (c) 1. An employee or an appointing authority may appeal a decision issued by
4 the administrator under par. (b) by filing an appeal with the commission. The
5 employee or appointing authority may file an appeal with the commission no later
6 than 14 days after receiving the administrator's decision. Within 10 days of receiving
7 an appeal, the commission shall determine whether all procedural requirements
8 were completed properly and in a timely manner. If a procedural requirement was
9 not met, the commission shall dismiss the appeal. If all of the procedural
10 requirements were met, the commission shall hear the appeal under s. 230.44 (4),
11 except that the commission shall issue a decision on the appeal no later than 120 days
12 after the date the appeal is filed with the commission.

13 2. To ensure that the commission issues its decision no later than 120 days after
14 an appeal is filed under this paragraph, all of the following apply to a hearing before
15 the commission for an appeal under this paragraph:

16 a. The parties shall participate in a pre-hearing conference no later than 20
17 days after the filing of the appeal. The commission shall set the date of the hearing
18 at the pre-hearing conference.

19 b. Discovery shall be completed no later than 60 days after the appeal is filed.

20 c. The commission shall rule on all motions no later than 30 days before the date
21 of the hearing.

22 d. The commission may only grant an extension to a deadline provided in this
23 subdivision for extraordinary circumstances. The commission may not grant an
24 extension beyond the 120 day limit for issuing its decision.

1 e. Continuances of the hearing may be granted only in extraordinary
2 circumstance, as determined by the commission.

***NOTE: Tennessee law states that neither party is entitled to a petition for reconsideration. I am not sure if that is applicable to the WERC process.

3 **SECTION 95.** 321.65 (3) (g) of the statutes is amended to read:

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

9 **SECTION 96.** 2015 Wisconsin Act 55, section 9101 (5n) (a) is amended to read:

10 [2015 Wisconsin Act 55] Section 9101 (5n) (a) In this subsection, "agency"
11 means ~~the board of commissioners of public lands; the educational communications~~
12 ~~board; the department of financial institutions; the government accountability~~
13 ~~board; the higher educational aids board; the state historical society; the public~~
14 ~~service commission; the department of safety and professional services; the state fair~~
15 ~~park board; the department of tourism~~ any agency within the executive branch of
16 state government, other than the Board of Regents of the University of Wisconsin
17 System.

18 **SECTION 97.** 2015 Wisconsin Act 55, section 9101 (5n) (b) is amended to read:

19 [2015 Wisconsin Act 55] Section 9101 (5n) (b) The By January 1, 2017, the
20 department of administration shall consult with each agency and develop a plan for
21 assuming responsibility for services relating to human resources. The department
22 of administration shall also consult with the board of commissioners of public lands,
23 the educational communications board, the department of financial institutions, the

1 government accountability board, the higher educational aids board, the state
2 historical society, the public service commission, the department of safety and
3 professional services, the state fair park board, and the department of tourism and
4 develop a plan for assuming responsibility for services related to payroll, finance,
5 budgeting, procurement, and information technology for any agency these agencies.
6 The department of administration shall include in the each plan which services
7 would be provided to each agency, which positions would be deleted or transferred,
8 and the number and type of positions and associated funding that would be provided
9 to the department of administration.

10 **SECTION 98. Nonstatutory provisions.**

11 (1) STUDY OF CERTAIN ASPECTS OF THE STATE CIVIL SERVICE SYSTEM. (a) The
12 administrator of the division of personnel management in the department of
13 administration and the director of the bureau of merit recruitment and selection in
14 the department of administration shall jointly review all of the following:

15 1. The classifications for all positions in the classified service of the state
16 service. In reviewing the classifications, they shall consider the feasibility of
17 reducing the number of classifications, as well as establishing a new system of
18 classification, in order to increase administrative efficiency and better meet the
19 needs of the state civil service.

20 2. The Wisconsin Human Resources Handbook.

21 3. The compensation plan under section 230.12 (1) of the statutes.

22 4. The feasibility of requiring all state agencies to use electronic personnel files.

23 5. The feasibility of requiring all state agencies to use a uniform personnel
24 evaluation system.

1 (b) The administrator and director shall submit their findings under paragraph
2 (a) no later than January 1, 2017, to the governor and to the chief clerk of each house
3 of the legislature for distribution to the legislature under section 13.172 (2) of the
4 statutes.

5 **SECTION 99. Initial applicability.**

6 (1) INFORMATION ABOUT CONVICTION RECORD. The creation of section 230.16 (1)
7 (ap) of the statutes first applies to an application for employment in the civil service
8 submitted on the effective date of this subsection.

9 (2) STANDARD FOR ADVERSE ACTION AGAINST CIVIL SERVICE EMPLOYEES. The
10 renumbering of section 230.34 (1) (a) of the statutes and the creation of section 230.34
11 (1) (a) 2. and 3. of the statutes first apply to employee discipline commenced on the
12 effective date of this subsection.

****NOTE: This is a place holder. To what actions should the standard for taking
certain disciplinary actions against employees first apply?

13 (3) MANDATORY RESTORATION. The consolidation, renumbering, and amendment
14 of section 230.31 (1) (intro.) and (b) of the statutes first applies to employees who are
15 laid off on the effective date of this subsection.

****NOTE: This is not a complete list of all the initial applicability provisions that
may need to be included in this draft.

16 **SECTION 100. Effective date.**

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

19 (END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2783/P4ins
FFK:...

INS 9-9

1 **SECTION 1.** 230.05 (7) of the statutes, as affected by 2015 Wisconsin Act 55, is
2 amended to read:

3 230.05 (7) The director shall use techniques and procedures designed to certify
4 eligible applicants to any vacant permanent position within 45 30 days after the
5 filing of an appropriate request by an appointing authority.

History: 1971 c. 125, 270; 1977 c. 196 ss. 26, 105, 130 (5); 1977 c. 273; 1981 c. 20; 1983 a. 27; 1989 a. 31; 1997 a. 216, 237; 2003 a. 33; 2009 a. 28; 2015 a. 55.

END INS 9-9

INS 13-9

6 2. If a particular conviction record disqualifies applicants for a certain position
7 in the state civil service, the administrator may request a person applying for the
8 position to supply information regarding the conviction record of the applicant, or
9 otherwise inquire into or consider the conviction record of the applicant, to determine
10 whether the applicant's conviction record disqualifies him or her for the position
11 before the applicant is certified for the position.

END INS 13-9

INS 25-18

12 **SECTION 2.** 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (a) (intro.)
13 and amended to read:

14 230.34 (1) (a) 1. (intro.) An employee with permanent status in class or an
15 employee who has served with the state as an assistant district attorney or an
16 assistant state public defender for a continuous period of 12 months or more may be
17 removed, suspended without pay, discharged, reduced in base pay, or demoted only
18 for just cause. It is just cause to remove, suspend without pay, discharge, reduce the

1 base pay of, or demote an employee for work performance or personal conduct that
 2 is inadequate, unsuitable, or inferior, as determined by the appointing authority,
 3 after progressive discipline that complies with the administrator's standards under
 4 s. 230.04 (13m). It is just cause to remove, suspend without pay, discharge, reduce
 5 the base pay of, or demote an employee without progressive discipline for any of the
 6 following: *conduct*

but only imposing
imposing
 History: 1971 c. 270 ss. 61, 76; Stats. 1971 s. 16.28; 1975 c. 189, 200; 1977 c. 196 ss. 56, 130 (3), (5); 1977 c. 273; Stats. 1977 s. 230.34; 1979 c. 221; 1981 c. 140; 1983 a. 27 s. 2200 (15); 1989 a. 31; 1999 a. 102; 2003 a. 33; 2011 a. 10, 32; 2013 a. 20 ss. 2365m, 9448; 2013 a. 123, 166; 2015 a. 55; s. 13.92 (2) (i).

END INS 25-18

INS 26-22

7 *9.* *of* i. A violation of the code of ethics for classified and unclassified state employees
 8 established by the director under s. 19.45 (11) (a).

cross-referenced
 ***NOTE: This is the statutory authority for ER-MRS 24.

END INS 26-22

INS 27-24

9 **SECTION 3.** 230.34 (2) (a) of the statutes is amended to read:

10 230.34 (2) (a) The An appointing authority shall determine the order of layoff
 11 of such employees may be determined by seniority or primarily based on job
 12 performance or a combination thereof or by other factors, and thereafter on
 13 disciplinary records, seniority, and ability.

History: 1971 c. 270 ss. 61, 76; Stats. 1971 s. 16.28; 1975 c. 189, 200; 1977 c. 196 ss. 56, 130 (3), (5); 1977 c. 273; Stats. 1977 s. 230.34; 1979 c. 221; 1981 c. 140; 1983 a. 27 s. 2200 (15); 1989 a. 31; 1999 a. 102; 2003 a. 33; 2011 a. 10, 32; 2013 a. 20 ss. 2365m, 9448; 2013 a. 123, 166; 2015 a. 55; s. 13.92 (2) (i).

END INS 27-24

INS 28-13

14 **SECTION 4.** 230.37 (1) of the statutes, as affected by 2015 Wisconsin Act 55, is
 15 amended to read:

1 230.37 (1) In cooperation with appointing authorities the administrator shall
2 establish an employee performance evaluation program to provide a continuing
3 record of employee development and, when applicable, to serve as a basis for
4 pertinent personnel actions. Under the employee performance evaluation program
5 established under this subsection the administrator shall require each appointing
6 authority to conduct an annual performance evaluation of each employee appointed
7 by the appointing authority. Similar evaluations shall be conducted during the
8 probationary period but may not infringe upon the authority of the appointing
9 authority to retain or dismiss employees during the probationary period.

***NOTE: This replaces s. 230.06 (4) from the last version of this draft.

History: 1971 c. 270 ss. 66, 81; Stats. 1971 s. 16.32; 1977 c. 196 ss. 59, 130 (4); 1977 c. 273; Stats. 1977 s. 230.37; 1987 a. 140; 2003 a. 33; 2015 a. 55.

END INS 28-13

~~INS 35-15~~

Instruction from Jason

9-24

- ① Replace 230.15 (5) with amendment to 230.25 (2)(b) - change 60 → 30 days
- ② P. 15, line 17. change "oral evaluation" to "evaluation during the hearing process"
- ③ 230.16(1)(ap) change administrator → director
- ④ 230.25(2)(am) 3. Make preference for spouses of veterans parallel to veterans & make applicable to spouses who get points under current law
- ⑤ P. 8 line 18. add "classified"
- ⑥ Section 94 - Make sure deadline applies to all plans

Instructions from Jason

9-25

- ① Add cross-reference to new DMP program in s. 230.44 (1)(e)
- ② Change effective date → July 1, 2016, except for study of civil service which should be immediate

Additional Instructions from Jason

(9-25)

① P. 23, line 21

leave restoration, strike "in accordance with this subch."

② P. 25, line 10

add "serious" as determined by the director