



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2783/P4
FFK&RAC:emw

In 9-25
Today

2/P5

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV
XVAP

Regen.

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 (1) (b), 230.28 (6), 230.31
3 (1) (a), 230.31 (2) and 230.40 (3); **to renumber** 230.19 (1); **to renumber and**
4 **amend** 230.01 (2), 230.16 (7), 230.34 (1) (a) 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), 230.05 (7), 230.08 (2) (c), 230.13 (1) (a), 230.13 (3)
8 (b), 230.15 (1), 230.15 (1m) (c) 1., 230.16 (title), 230.16 (1) (a), 230.16 (3), 230.16
9 (4), 230.16 (5), 230.16 (7m) (b) 4., 230.16 (11), 230.17 (1), 230.17 (2), 230.18,
10 230.21 (1), 230.21 (2), 230.21 (3), 230.213, 230.24 (1), 230.24 (2), 230.25 (1),
11 230.25 (1n) (a) (intro.), 230.25 (2) (a), 230.25 (3) (a), 230.26 (2), 230.26 (4), 230.28
12 (1) (a), 230.28 (1) (am), 230.28 (1) (c), 230.32 (4), 230.34 (1) (am), 230.34 (2) (a),
13 230.34 (2) (b), 230.35 (3) (d), 230.37 (1), 230.43 (1) (title), 230.43 (1) (b), 230.43
14 (1) (c), 230.43 (1) (d), 230.43 (1) (e), 230.43 (5), 230.44 (1) (c) and 321.65 (3) (g);
15 **to create** 20.865 (1) (dm), 20.928 (1f), 230.01 (2) (bm), 230.01 (2) (bp), 230.04

1 (13m), 230.04 (19), 230.06 (1) (m), 230.06 (4), 230.13 (3) (c), 230.15 (5), 230.15
2 (6), 230.15 (7), 230.16 (1) (ap), 230.25 (2) (am), 230.34 (1) (a) 1. to 9. and 230.445
3 of the statutes; and **to affect** 2015 Wisconsin Act 55, section 9101 (5n) (a) and
4 2015 Wisconsin Act 55, section 9101 (5n) (b); **relating to:** state civil service and
5 making an appropriation.

Analysis → **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:

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

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

19 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
20 the following amounts for the purposes indicated:

1 2015-16 2016-17

2 **20.865 Program supplements**

3 (1) EMPLOYEE COMPENSATION AND SUPPORT

4 (dm) *Discretionary merit compensa-*

5 *tion program*

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6 **SECTION 3.** 20.865 (1) (dm) of the statutes is created to read:

7 20.865 (1) (dm) *Discretionary merit compensation program.* The amounts in
8 the schedule to supplement the appropriations to state agencies for the cost of
9 discretionary merit compensation awards approved by the division of personnel
10 management in the department of administration under s. 20.928 (1f).

11 **SECTION 4.** 20.928 (1f) of the statutes is created to read:

12 20.928 (1f) Each state agency head shall certify to the administrator of the
13 division of personnel management in the department of administration, at such time
14 and in such manner as the administrator prescribes, the sum of money needed from
15 the appropriations under s. 20.865 (1) (dm) for the state agency to make lump sum
16 discretionary merit compensation awards to its classified employees. Upon receipt
17 of the certifications together with such additional information as the administrator
18 prescribes, the administrator shall determine the amounts required from the
19 appropriation to supplement state agency budgets. The administrator may not
20 approve an agency request for money from the appropriation under s. 20.865 (1) (dm)
21 for a discretionary merit award that increases an employee's base compensation.

22 **SECTION 5.** 36.115 (6) of the statutes is amended to read:

23 36.115 (6) All system employees holding positions in the classified or
24 unclassified service of the civil service system under ch. 230 on June 30, 2015, shall

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

13 **SECTION 6.** 62.13 (4) (d) of the statutes is amended to read:

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

1 **SECTION 7.** 63.08 (1) (f) 1. of the statutes is amended to read:

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

6 **SECTION 8.** 63.08 (1) (f) 2. of the statutes is amended to read:

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

10 **SECTION 9.** 63.08 (1) (f) 3. of the statutes is amended to read:

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

17 **SECTION 10.** 63.37 of the statutes is amended to read:

18 **63.37 Board to keep a register of eligibles.** From the returns or reports of
19 the examiners, or from the examinations made by the board, the board shall prepare
20 and keep a register for each grade or class of position in the service of such city, of
21 the persons whose general average standing upon examinations for such grade or
22 class is not less than the minimum fixed by the rules of such board, and who are
23 otherwise eligible, and such persons shall take rank upon the register as candidates
24 in the order of their relative excellence as determined by examination without
25 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 11.** 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 12.** 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 13.** 230.01 (2) of the statutes is renumbered 230.01 (2) (a) and
25 amended to read:

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 14.** 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 15.** 230.01 (2) (bp) of the statutes is created to read:

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 16.** 230.04 (13m) of the statutes is created to read:

6 230.04 (13m) The administrator shall establish standards for progressive
7 discipline plans to be prepared by all agencies and applied to all employees in the
8 classified service. The standards shall address progressive discipline for personal
9 conduct and work performance that is inadequate, unsuitable, or inferior.

10 **SECTION 17.** 230.04 (14) of the statutes, as affected by 2015 Wisconsin Act 55,
11 is amended to read:

12 230.04 (14) The Except as provided in s. 230.445, the administrator shall
13 establish, by rule, the scope and minimum requirements of a state employee
14 grievance procedure relating to conditions of employment.

15 **SECTION 18.** 230.04 (19) of the statutes is created to read:

16 230.04 (19) The administrator shall develop and implement a discretionary
17 merit award program to distribute money under s. 20.928 (1f) to agencies for the
18 purpose of providing lump sum monetary awards to ^{classified} employees whose job
19 performance has exceeded agency expectations.

20 **SECTION 19.** 230.05 (7) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

22 230.05 (7) The director shall use techniques and procedures designed to certify
23 eligible applicants to any vacant permanent position within 45 30 days after the
24 filing of an appropriate request by an appointing authority.

25 **SECTION 20.** 230.06 (1) (m) of the statutes is created to read:

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

3 **SECTION 21.** 230.06 (4) of the statutes is created to read:

4 230.06 (4) An appointing authority shall maintain permanently an employee's
5 disciplinary records in the employee's personnel file. Unless otherwise ordered by
6 a court or, during the grievance process under s. 230.445, by the appointing
7 authority, administrator, or commission, or unless otherwise agreed to in a
8 settlement agreement, disciplinary records may not be removed from an employee's
9 personnel file.

10 **SECTION 22.** 230.08 (2) (c) of the statutes is amended to read:

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

21 **SECTION 23.** 230.12 (1) (h) of the statutes is repealed.

22 **SECTION 24.** 230.13 (1) (a) of the statutes is amended to read:

23 230.13 (1) (a) ~~Examination scores and ranks and other evaluations~~
24 Evaluations of applicants, including any examination scores and rankings.

25 **SECTION 25.** 230.13 (3) (b) of the statutes is amended to read:

1 230.13 (3) (b) The director and the administrator may provide any agency with
2 personnel information relating to the hiring and recruitment process, including
3 specifically ~~the examination~~ scores and ranks and other evaluations of applicants.

4 **SECTION 26.** 230.13 (3) (c) of the statutes is created to read:

5 230.13 (3) (c) The administrator and the director shall provide an appointing
6 authority with access to the personnel files of any individual who currently holds a
7 position whom the appointing authority intends to make an offer of employment.

8 **SECTION 27.** 230.15 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
9 is amended to read:

10 230.15 (1) Subject to the restriction under s. 230.143, appointments to, and
11 promotions in, the classified service shall be made only according to merit and
12 fitness, which shall be ascertained so far as practicable by competitive ~~examination~~
13 procedures. The director may waive competitive ~~examination~~ procedures for
14 appointments made under subs. (1m) and (2) and shall waive competitive
15 ~~examination~~ procedures for appointments made under sub. (2m).

16 **SECTION 28.** 230.15 (1m) (c) 1. of the statutes, as affected by 2015 Wisconsin
17 Act 55, is amended to read:

18 230.15 (1m) (c) 1. Whenever a position is included in the classified service
19 under par. (a), the director may waive the requirement for competitive ~~examination~~
20 procedures under sub. (1) with respect to the position and certify the incumbent
21 employee for appointment to the position in accordance with subd. 2.

22 **SECTION 29.** 230.15 (5) of the statutes is created to read:

23 230.15 (5) No later than 30 days after receiving from the director a list of names
24 of individuals who are certified for appointment to a vacant position, the appointing
25 authority shall make every effort to make an offer of employment for the position.

1 **SECTION 30.** 230.15 (6) of the statutes is created to read:

2 230.15 (6) Annually, each appointing authority shall submit a report to the
3 director and the administrator indicating the number of days it took to make an offer
4 of employment for a vacant position after receiving from the director a list of names
5 of individuals who are certified for appointment to the position.

6 **SECTION 31.** 230.15 (7) of the statutes is created to read:

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

10 **SECTION 32.** 230.16 (title) of the statutes is amended to read:

11 **230.16 (title) Applications and examinations resumes.**

12 **SECTION 33.** 230.16 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
13 is amended to read:

14 230.16 (1) (a) The director shall require persons applying for ~~admission to any~~
15 ~~examination under this subchapter or under the rules of the director~~ a position in the
16 civil service to file an application and resume with the bureau ~~a reasonable time prior~~
17 ~~to the proposed examination.~~

18 **SECTION 34.** 230.16 (1) (ap) of the statutes is created to read:

19 230.16 (1) (ap) 1. Except as provided in subd. 2., the ~~administrator~~ ^{director} may not
20 request a person applying for a position in the civil service, on an application or
21 otherwise, to supply information regarding the conviction record of the applicant, or
22 otherwise inquire into or consider the conviction record of the applicant before the
23 applicant has been certified for the position. This paragraph does not prohibit the
24 administrator from notifying an applicant for a position in the civil service that, by

1 law or policy, a particular conviction record may disqualify an applicant from
2 employment in a particular position.

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

9 **SECTION 35.** 230.16 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is repealed.

11 **SECTION 36.** 230.16 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
12 is amended to read:

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

20 **SECTION 37.** 230.16 (4) of the statutes is amended to read:

21 230.16 (4) All ~~examinations~~ eligibility requirements, including minimum
22 training and experience requirements, for positions in the classified service shall be
23 job-related in compliance with appropriate validation standards and shall be subject
24 to the approval of the administrator. All relevant experience, whether paid or
25 unpaid, shall satisfy experience requirements.

1 **SECTION 38.** 230.16 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.16 (5) In the interest of sound personnel management, consideration of
4 applicants, and service to agencies, the director may set a standard for proceeding
5 to subsequent steps in ~~an examination~~ the hiring process, provided that all
6 applicants are fairly treated and due notice has been given. ~~The standard may be~~
7 ~~at or above the passing point set by the director for any portion of the examination.~~
8 The director shall utilize appropriate scientific techniques and procedures in
9 administering the selection process, in rating the results of examinations
10 applications, resumes, and oral evaluations, and in determining the relative ratings
11 of the competitors.

12 **SECTION 39.** 230.16 (6) of the statutes, as affected by 2015 Wisconsin Act 55,
13 is repealed.

14 **SECTION 40.** 230.16 (7) of the statutes is renumbered 63.08 (1) (fm), and 63.08
15 (1) (fm) 1. (intro.) and 2., as renumbered, are amended to read:

16 63.08 (1) (fm) 1. (intro.) A preference shall be given to those veterans and to
17 those spouses of veterans specified in subds. 1. ~~to 6. a. to f.~~ who gain eligibility on any
18 competitive employment register and who do not currently hold a permanent
19 appointment or have mandatory restoration rights to a permanent appointment to
20 any position. A preference means the following:

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

25 **SECTION 41.** 230.16 (7m) (b) 4. of the statutes is amended to read:

1 230.16 (7m) (b) 4. ~~The examination~~ The appointing authority has not extended
2 interviews for the position is a written, nonessay examination that is scored by a
3 machine or filled the position at the time the application is received.

4 **SECTION 42.** 230.16 (7m) (c) of the statutes, as affected by 2015 Wisconsin Act
5 55, is repealed.

6 **SECTION 43.** 230.16 (9) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is repealed.

8 **SECTION 44.** 230.16 (10) of the statutes is repealed.

9 **SECTION 45.** 230.16 (11) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is amended to read:

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

15 **SECTION 46.** 230.17 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
16 is amended to read:

17 230.17 (1) The director shall provide by rule, the conditions, not otherwise
18 provided by law, under which an applicant eligible may be refused ~~examination or~~
19 ~~reexamination, or an eligible refused certification.~~ These conditions shall be based
20 on sufficient reason and shall reflect sound technical personnel management
21 practices and those standards of conduct, deportment and character necessary and
22 demanded to the orderly, efficient and just operation of the state service.

23 **SECTION 47.** 230.17 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is amended to read:

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

14 **SECTION 48.** 230.18 of the statutes, as affected by 2015 Wisconsin Act 55, is
 15 amended to read:

16 **230.18 Discrimination prohibited.** No question in any form of application
 17 or in any examination (oral) evaluation ^{used in the hiring process} may be so framed as to elicit information
 18 concerning the partisan political or religious opinions or affiliations of any applicant
 19 nor may any inquiry be made concerning such opinions or affiliations and all
 20 disclosures thereof shall be discountenanced except that the director may evaluate
 21 the competence and impartiality of applicants for positions such as clinical chaplain
 22 in a state institutional program. No discriminations may be exercised in the
 23 recruitment, application, ~~examination~~ or hiring process against or in favor of any
 24 person because of the person's political or religious opinions or affiliations or because

1 of age, sex, disability, race, color, sexual orientation, national origin, or ancestry
2 except as otherwise provided.

3 **SECTION 49.** 230.19 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
4 is renumbered 230.19.

5 **SECTION 50.** 230.19 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
6 is repealed.

7 **SECTION 51.** 230.19 (3) of the statutes is repealed.

8 **SECTION 52.** 230.21 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
9 is amended to read:

10 230.21 (1) Subject to s. 230.275, the director may, to meet the needs of the
11 service, establish separate recruitment, ~~examination~~ and certification procedures
12 for filling positions in unskilled labor and service classes.

13 **SECTION 53.** 230.21 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is amended to read:

15 230.21 (2) The director may designate classifications in which applicants are
16 in critically short supply and may develop such recruitment, ~~examination~~ and
17 certification processes as will provide agencies with prompt certification when
18 qualified applicants can be found, provided that due notice has been given and proper
19 competitive standards have been maintained.

20 **SECTION 54.** 230.21 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

22 230.21 (3) The director shall designate classifications in prison industries in
23 the department of corrections as critical positions requiring expeditious hiring and
24 shall develop such recruitment, ~~examination~~ and certification processes as will
25 provide the department with prompt certification when qualified applicants can be

1 found, provided that due notice has been given and proper competitive standards
2 have been maintained.

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

5 **230.213 Affirmative action procedures for corrections positions.** The
6 director may, to meet affirmative action objectives, establish such recruitment,
7 ~~examination~~ and certification procedures for positions in the department of
8 corrections as will enable the department of corrections to increase the number of
9 employees of a specified gender or a specified racial or ethnic group in those positions.
10 The director shall design the procedures to obtain a work force in the department of
11 corrections that reflects the relevant labor pool. The director may determine the
12 relevant labor pool from the population of the state or of a particular geographic area
13 of the state, whichever is more appropriate for achieving the affirmative action
14 objective.

15 **SECTION 56.** 230.24 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
16 is amended to read:

17 230.24 (1) The administrator may by rule develop a career executive program
18 that emphasizes excellence in administrative skills in order to provide agencies with
19 a pool of highly qualified executive candidates, to provide outstanding
20 administrative employees a broad opportunity for career advancement, and to
21 provide for the mobility of such employees among the agencies and units of state
22 government for the most advantageous use of their managerial and administrative
23 skills. To accomplish the purpose of this program, the director may provide policies
24 and standards for recruitment, ~~examination~~, probation, employment register
25 control, certification, transfer, promotion, and reemployment, and the director may

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

5 **SECTION 57.** 230.24 (2) of the statutes is amended to read:

6 230.24 (2) A vacancy in a career executive position may be filled through an
7 open competitive ~~examination~~ hiring process, a competitive promotional
8 ~~examination process~~, or by restricting competition to employees in career executive
9 positions in order to achieve and maintain a highly competent work force in career
10 executive positions, with due consideration given to affirmative action. The
11 appointing authority shall consider the guidelines under s. 230.19 when deciding
12 how to fill a vacancy under this ~~paragraph~~ subsection.

13 **SECTION 58.** 230.25 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is amended to read:

15 230.25 (1) Appointing authorities shall give written notice to the director of any
16 vacancy to be filled in any position in the classified service. The director shall certify,
17 under this subchapter and the rules of the director, from the register of eligibles
18 appropriate for the kind and type of employment, the grade and class in which the
19 position is classified, any number of names at the head thereof. In determining the
20 number of names to certify, the director shall use statistical methods and personnel
21 management principles that are designed to maximize the number of certified names
22 that are appropriate for filling the specific position vacancy. Up to 2 persons
23 considered for appointment 3 times and not selected may be removed from the
24 register for each 3 appointments made. ~~Certification under this subsection shall be~~
25 ~~made before granting any preference under s. 230.16 (7).~~

1 **SECTION 59.** 230.25 (1m) of the statutes is repealed.

2 **SECTION 60.** 230.25 (1n) (a) (intro.) of the statutes, as affected by 2015
3 Wisconsin Act 55, is amended to read:

4 230.25 (1n) (a) (intro.) After certifying names under subs. (1), and (1g) and
5 (1m), the director may engage in expanded certification by doing one or more of the
6 following:

7 **SECTION 61.** 230.25 (2) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
8 is amended to read:

9 230.25 (2) (a) When certifying names to appointing authorities under this
10 section, the director shall specify whether the certification includes qualifying
11 veterans or persons the hiring of whom would serve affirmative action purposes,
12 without divulging the names of those individuals. ~~The director shall not disclose any~~
13 ~~applicant's test score, with or without the addition of veterans preference points~~
14 ~~under s. 230.16 (7), to the appointing authority.~~

15 **SECTION 62.** 230.25 (2) (am) of the statutes is created to read:

16 230.25 (2) (am) 1. If the certification list for a position includes a veteran and
17 the appointing authority extends invitations to interview candidates for the position,
18 the appointing authority shall extend an invitation to interview to the veteran.

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

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23 3. When extending invitations to interview for an appointment or promotion,
24 an appointing authority shall offer an interview to the spouse or surviving spouse of
25 a veteran if the spouse or surviving spouse is a qualified voter in this state or has been

1 a resident of this state for at least 2 years preceding the date of the spouse's
2 application and one of the following applies:

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

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

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

14 **SECTION 63.** 230.25 (3) (a) of the statutes is amended to read:

15 230.25 (3) (a) Subject to par. (b), the term of eligibility on original entrance and
16 promotional registers is 6 months and thereafter the register expires but may be
17 reactivated by the administrator for up to 3 years from the date of the establishment
18 of the register. ~~Except as provided in ss. 230.28 and 230.34, the eligibility of~~
19 ~~individuals for reinstatement is 5 years and the eligibility of individuals for~~
20 ~~restoration is 3 years.~~

21 **SECTION 64.** 230.26 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is amended to read:

23 230.26 (2) If there are urgent reasons for filling a vacancy in any position in
24 the classified service and the director is unable to certify to the appointing authority,
25 upon requisition by the latter, a list of persons eligible for appointment from an

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1 appropriate employment register, the appointing authority may nominate a person
2 to the director ~~for noncompetitive examination~~. If the nominee is certified by the
3 director as qualified, the nominee may be appointed provisionally to fill the vacancy
4 until an appointment can be made from a register established after announcement
5 of competition for the position, except that no provisional appointment may be
6 continued for more than 45 working days after the date of certification from the
7 register. Successive appointments may not be made under this subsection. This
8 subsection does not apply to a person appointed to a vacant position in the classified
9 service under s. 230.275.

10 **SECTION 65.** 230.26 (4) of the statutes is amended to read:

11 230.26 (4) Fringe benefits specifically authorized by statutes, with the
12 exception of deferred compensation plan participation under subch. VII of ch. 40,
13 worker's compensation, unemployment insurance, group insurance, retirement, and
14 social security coverage, shall be denied employees hired under this section. Such
15 employees may not be considered permanent employees and do not qualify for
16 tenure, vacation, paid holidays, sick leave, performance awards, or the right to
17 compete in promotional ~~examinations~~ processes.

18 **SECTION 66.** 230.28 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

20 230.28 (1) (a) All original and all promotional appointments to permanent,
21 sessional and seasonal positions, with the exception of those positions designated as
22 supervisor or management under s. 111.81, in the classified service shall be for a
23 probationary period of ~~6 months, but the director at the request of the appointing~~
24 ~~authority and in accordance with the rules related thereto may extend any such~~
25 ~~period for a maximum of 3 additional months~~ 2 years. Dismissal may be made at any

1 time during such periods. Upon such dismissal, the appointing authority shall
2 report to the director and to the employee removed, the dismissal and the reason
3 therefor. The director may remove an employee during the employee's probationary
4 period if the director finds, after giving notice and an opportunity to be heard, that
5 such employee was appointed as a result of fraud or error.

6 **SECTION 67.** 230.28 (1) (am) of the statutes is amended to read:

7 230.28 (1) (am) All probationary periods for employees in supervisory or
8 management positions are ~~one-year~~ 2 years unless waived after ~~6 months~~ one year
9 under par. (c). The waiver under par. (c) may be exercised for an employee in a
10 supervisory position only if the employee has successfully completed a supervisory
11 development program under s. 230.046 (2). However, persons who transfer or are
12 reinstated to supervisory or management positions consistent with conditions under
13 sub. (4) and who had previously obtained permanent status in class in a supervisory
14 or management position prior to the transfer or reinstatement shall serve a
15 probationary period in accordance with sub. (4).

16 **SECTION 68.** 230.28 (1) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
17 is repealed.

18 **SECTION 69.** 230.28 (1) (c) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

20 230.28 (1) (c) Upon request by the appointing authority, the director may waive
21 any portion of the lengthened probationary period but in no case before a ~~6-month~~
22 one-year probationary period has been served.

23 **SECTION 70.** 230.28 (6) of the statutes is repealed.

24 **SECTION 71.** 230.31 (1) (intro.) and (b) of the statutes, as affected by 2015
25 Wisconsin Act 55, are consolidated, renumbered 230.31 and amended to read:

1 **230.31 Restoration of employment and reinstatement Reinstatement**
2 **privileges.** Any person who has held a position and obtained permanent status in
3 a class under the civil service law and rules and who has separated from the service
4 without any delinquency or misconduct on his or her part but owing to reasons of
5 economy or otherwise is on layoff status shall be granted the following
6 considerations: (b) For eligible for reinstatement in a position having a comparable
7 or lower pay rate or range for which such person is qualified for a 3-year period from
8 the date of separation, if on the layoff status, the person shall be placed, in inverse
9 order of layoff, on an appropriate mandatory restoration register for the unit used
10 for layoff and on a restoration register for the agency from which the person was laid
11 off. Use of such registers shall be subject to the rules of the director.

12 **SECTION 72.** 230.31 (1) (a) of the statutes is repealed.

13 **SECTION 73.** 230.31 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is repealed.

15 **SECTION 74.** 230.32 (4) of the statutes, as affected by 2015 Wisconsin Act 55,
16 is amended to read:

17 230.32 (4) Any person appointed to fill the position of an employee on such
18 military or civilian leave shall be designated as a substitute or replacement employee
19 and upon the return and reemployment of the original employee the substitute
20 employee shall be transferred to a similar position with the same employing agency

21 if one is available, or if not, he or she shall be eligible for reinstatement or have the
22 right of restoration in accordance with this subchapter and the rules of the director.

23 The status of any person who is appointed to fill the place of an employee on military
24 or civilian leave under this section shall be governed by the rules of the director
25 pursuant thereto.

1 **SECTION 75.** 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (a) (intro.)
2 and amended to read:

3 230.34 (1) (a) (intro.) An employee with permanent status in class or an
4 employee who has served with the state as an assistant district attorney or an
5 assistant state public defender for a continuous period of 12 months or more may be
6 removed, suspended without pay, discharged, reduced in base pay, or demoted only
7 for just cause. It is just cause to remove, suspend without pay, discharge, reduce the
8 base pay of, or demote an employee for work performance or personal conduct that
9 is inadequate, unsuitable, or inferior, as determined by the appointing authority, but
10 only after imposing progressive discipline that complies with the administrator's
11 standards under s. 230.04 (13m). It is just cause to remove, suspend without pay,
12 discharge, reduce the base pay of, or demote an employee without imposing
13 progressive discipline for any of the following conduct:

14 **SECTION 76.** 230.34 (1) (a) 1. to 9. of the statutes are created to read:

15 230.34 (1) (a) 1. ^{While on duty,} Harassing a person while on duty.

16 2. ^{While on duty,} Intentionally inflicting physical harm on another person while on duty.

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

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

23 5. Falsifying records of the agency.

24 6. Theft of agency property or services with intent to deprive an agency of the
25 property or services permanently, theft of currency of any value, felonious conduct

1 connected with the employee's employment with the agency, or intentional or
2 negligent conduct by an employee that causes substantial damage to agency
3 property.

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

7 8. Misuse or abuse of agency property, including the intentional use of the
8 agency's equipment to download, view, solicit, seek, display, or distribute
9 pornographic material.

10 9. A ^{section} violation of the code of ethics for classified and unclassified state employees¹⁰
11 established by the director under s. 19.45 (11) (a). ^{as determined by}
^{the director}

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

12 **SECTION 77.** 230.34 (1) (am) of the statutes is amended to read:

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

22 **SECTION 78.** 230.34 (2) (a) of the statutes is amended to read:

23 230.34 (2) (a) The An appointing authority shall determine the order of layoff
24 of such employees may be determined by seniority or primarily based on job

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1 performance ~~or a combination thereof or by other factors, and thereafter on~~
2 disciplinary records, seniority, and ability.

3 **SECTION 79.** 230.34 (2) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
4 is amended to read:

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

10 **SECTION 80.** 230.35 (3) (d) of the statutes, as affected by 2015 Wisconsin Act 55,
11 is amended to read:

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

16 **SECTION 81.** 230.37 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
17 is amended to read:

18 230.37 (1) In cooperation with appointing authorities the administrator shall
19 establish an employee performance evaluation program to provide a continuing
20 record of employee development and, when applicable, to serve as a basis for
21 pertinent personnel actions. Under the employee performance evaluation program
22 established under this subsection, the administrator shall require each appointing
23 authority to conduct an annual performance evaluation of each employee appointed
24 by the appointing authority. Similar evaluations shall be conducted during the

1 probationary period but may not infringe upon the authority of the appointing
2 authority to retain or dismiss employees during the probationary period.

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

3 **SECTION 82.** 230.40 (3) of the statutes is repealed.

4 **SECTION 83.** 230.43 (1) (title) of the statutes is amended to read:

5 230.43 (1) (title) ~~OBSTRUCTION~~ HIRING PROCESS; OBSTRUCTION OR FALSIFICATIONS
6 OF EXAMINATIONS.

7 **SECTION 84.** 230.43 (1) (a) of the statutes is renumbered 230.43 (1) (intro.) and
8 amended to read:

9 230.43 (1) (intro.) Any person who ~~willfully~~, alone or in cooperation with one
10 or more persons, ~~defeats~~ does any of the following is, for each offense, guilty of a
11 misdemeanor:

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

15 **SECTION 85.** 230.43 (1) (b) of the statutes is amended to read:

16 230.43 (1) (b) ~~Who willfully~~, Willfully or corruptly, falsely marks, grades,
17 estimates, or reports upon ~~the examination~~ an application or resume, or proper
18 standing of any person ~~examined~~ evaluated, registered, or certified, pursuant to this
19 subchapter, or aids in so doing, ~~or,~~

20 **SECTION 86.** 230.43 (1) (c) of the statutes is amended to read:

21 230.43 (1) (c) ~~Who willfully~~ Willfully or corruptly makes any false
22 representations concerning the same, or concerning ~~the person examined~~ an
23 applicant, ~~or,~~

24 **SECTION 87.** 230.43 (1) (d) of the statutes is amended to read:

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

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

6 230.43 (1) (e) ~~Who personates~~ Personates any other person, or permits or aids
7 in any manner any other person to personate him or her in connection with any
8 ~~examination~~, registration, application, or request to be ~~examined~~ evaluated or
9 registered, ~~shall for each offense be guilty of a misdemeanor.~~

10 **SECTION 89.** 230.43 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
11 is amended to read:

12 230.43 (5) **TAXPAYERS' SUITS.** The right of any taxpayer to bring any action to
13 restrain the payment of compensation to any person appointed to or holding any
14 office or place of employment in violation of this subchapter shall not be limited or
15 denied by reason of the fact that the office or place of employment has been classified
16 as, or determined to be, not subject to a competitive examination hiring process;
17 however, any judgment or injunction in any such action shall be prospective only, and
18 shall not affect payments already made or due to such persons by the proper
19 disbursing officers, in accordance with the rules of the administrator in force at the
20 time of such payments.

21 **SECTION 90.** 230.44 (1) (c) of the statutes is amended to read:

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

1 or reduction in base pay to the commission as the final step in the state employee
2 grievance ~~procedure~~ process established under s. ~~230.04 (14)~~ 230.445, if the appeal
3 alleges that the decision was not based on just cause.

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4 **SECTION 91.** 230.445 of the statutes is created to read:

5 **230.445 Grievance process for demotion, suspension, discharge,**
6 **layoff, or reduction in base pay.** (1) In this section, ^{an} "adverse employment
7 decision" means a decision to demote, layoff, suspend without pay, discharge, or
8 reduce the base pay of an employee.

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9 (2) An employee may file a complaint under this section concerning the
10 application of a law, rule, or policy to an adverse employment decision against the
11 employee. If an employee does not file a complaint or an appeal by an applicable
12 deadline under sub. (3), the employee waives his or her right to appeal the adverse
13 employment decision under this chapter.

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

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

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

6 2. If the administrator receives a timely complaint under subd. 1., the
7 administrator shall review the complaint and the appointing authority's written
8 decision, and shall issue a decision, in writing, no later than 30 days after the date
9 the employee filed a complaint with the administrator. If the administrator does not
10 issue a written decision within 31 days after receiving the employee's complaint, the
11 employee may appeal to the commission under par. (c).

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

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

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

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

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

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

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

12 **SECTION 92.** 321.65 (3) (g) of the statutes is amended to read:

13 321.65 (3) (g) *Veterans preferences.* The right of a person to reemployment
14 under this subsection does not entitle the person to retention, preference, or
15 displacement rights over any person who has a superior claim under s. 45.03 (4),
16 62.13 (4) (d), 63.08 (1) (f) or (fm), 63.37, 63.39 (2m), 66.0509 (1), 230.15 (2m), 230.16
17 ~~(7) or (7m)~~, 230.21 (1m), 230.25, or 230.275.

18 **SECTION 93.** 2015 Wisconsin Act 55, section 9101 (5n) (a) is amended to read:

19 [2015 Wisconsin Act 55] Section 9101 (5n) (a) In this subsection, "agency"
20 means ~~the board of commissioners of public lands; the educational communications~~
21 ~~board; the department of financial institutions; the government accountability~~
22 ~~board; the higher educational aids board; the state historical society; the public~~
23 ~~service commission; the department of safety and professional services; the state fair~~
24 ~~park board; the department of tourism~~ any agency within the executive branch of

1 state government, other than the Board of Regents of the University of Wisconsin
2 System.

3 **SECTION 94.** 2015 Wisconsin Act 55, section 9101 (5n) (b) is amended to read:

4 [2015 Wisconsin Act 55] Section 9101 (5n) (b) ~~The~~ By January 1, 2017, the

5 department of administration shall consult with each agency and develop a plan for

6 assuming responsibility for services relating to human resources, ~~The department~~ ^(By January 1, 2017)

7 of administration shall also consult with the board of commissioners of public lands,

8 the educational communications board, the department of financial institutions, the

9 government accountability board, the higher educational aids board, the state

10 historical society, the public service commission, the department of safety and

11 professional services, the state fair park board, and the department of tourism and

12 develop a plan for assuming responsibility for services related to payroll, finance,

13 budgeting, procurement, and information technology for any agency these agencies.

14 The department of administration shall include in ~~the~~ each plan which services

15 would be provided to each agency, which positions would be deleted or transferred,

16 and the number and type of positions and associated funding that would be provided

17 to the department of administration.

18 **SECTION 95. Nonstatutory provisions.**

19 (1) STUDY OF CERTAIN ASPECTS OF THE STATE CIVIL SERVICE SYSTEM. (a) The

20 administrator of the division of personnel management in the department of

21 administration and the director of the bureau of merit recruitment and selection in

22 the department of administration shall jointly review all of the following:

23 1. The classifications for all positions in the classified service of the state

24 service. In reviewing the classifications, they shall consider the feasibility of

25 reducing the number of classifications, as well as establishing a new system of

1 classification, in order to increase administrative efficiency and better meet the
2 needs of the state civil service.

3 2. The Wisconsin Human Resources Handbook.

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

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

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

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

12 **SECTION 96. Initial applicability.**

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

16 (2) STANDARD FOR ADVERSE ACTION AGAINST CIVIL SERVICE EMPLOYEES. The
17 renumbering of section 230.34 (1) (a) of the statutes and the creation of section 230.34
18 (1) (a) 2. and 3. of the statutes first apply to employee discipline ^{for conduct that} commenced on the ^{occurs}
19 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?

20 (3) MANDATORY RESTORATION. The consolidation, renumbering, and amendment
21 of section 230.31 (1) (intro.) and (b) of the statutes first applies to employees who are
22 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.

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SECTION 97. Effective date.

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

(END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2783/P5
FFK:...

Analysis

This bill makes various changes to the state civil service (civil service). The civil service includes all classified and unclassified positions and offices of trust or employment in the service of the state, except positions and offices in the ~~the~~ University of Wisconsin System and the Wisconsin national guard. The state civil service is administered by the division of personnel management (DPM) in the department of administration (DOA) and the bureau of merit recruitment and selection (bureau) in DPM.

The hiring process.

1. The bill replaces competitive examinations with competitive procedures. Under current law, subject to certain exceptions, appointments to and promotions in the classified service must be made according to merit and fitness, which must be ascertained by competitive examinations. This bill changes the manner that must be used to ascertain the merit and fitness of applicants from competitive examinations to competitive procedures.

2. The bill requires applicants for positions in the civil service to submit an application and resume to the bureau.

3. Unless a certain conviction record disqualifies applicants from a civil service position, this bill prohibits the director of the bureau from asking an applicant on an application, or ~~other~~ otherwise, to supply information about the applicant's conviction record before the applicant is certified for the position.

4. This bill provides a preference for veterans and certain spouses of veterans in the hiring process for a civil service position. Under the bill, if a veteran or qualifying spouse of a veteran is included on a certification list, the appointing authority must offer an interview to the veteran or spouse of a veteran. Additionally, ~~if~~ after interviewing candidates for a position, if minimum qualifications, skills, abilities, competencies, and knowledge are equal among the candidates, an appointing authority shall give a preference to the veteran. These preferences replace the preference system under current law, under which veterans and qualifying spouses of veterans received preference points. Under current law, these preference points are applied during the process of creating a certification list for a position.

5. Under the bill, before making an offer of employment to an individual who currently holds a position in the civil service, an appointing authority must review the individual's personnel file. This bill also requires the administrator of DPM and the director of the bureau to provide an appointing authority with access to the personnel files of such employees.

6. This bill changes the general deadline for making appointments from 60 days after certification to 30 days after certification. The bill also requires the director of the bureau to use techniques and procedures to certify applicants for a vacant permanent position within 30 days of receiving a request from an appointing authority, rather than within 45 days under current law.

property, falsifying agency records, and while on duty, harassing or intentionally inflicting physical harm on another person.

3. This bill changes the threshold for considering an employee's position abandoned and disciplining the employee for failing to report for work as scheduled without contacting a supervisor from 5 consecutive working days during a calendar year to 3 working days in a calendar year.

Grievance process for certain adverse employment actions.

This bill creates a specific grievance process for classified employees to challenge adverse employment actions. To begin the grievance process, an employee must file a complaint challenging the adverse employment decision with the employee's appointing authority no later than 14 days after the employee becomes aware of, or should have become aware of, the adverse employment decision. The appointing authority then conducts an investigation, meets with ~~with~~ the employee in person, and issues a written decision no later than 14 days after receiving the complaint. To appeal an appointing authority's decision, the employee must file a complaint with the administrator of DPM no later than 14 days after the appointing authority issues its decision. Within 30 days of receiving a timely complaint, the administrator must review the complaint and issue a written decision. To appeal the administrator's decision, an appointing authority or employee must file an appeal with the employment relations commission (WERC) not later than 14 days after receiving the administrator's decision. If an employee fails to satisfy any of the deadline described in the grievance process, the employee is deemed to have waived his or her right to appeal the adverse employment action.

If WERC determines that all of the procedural requirements for an appeal of adverse employment decision have been satisfied, it will hear the employee's appeal under its standard process for state civil service appeals except that WERC must issue a decision on an appeal of an adverse employment decision no later than 120 days after the appeal is filed.

Discretionary merit award program

This bill requires the administrator of DPM to create a discretionary merit award program to provide additional funding to agencies for the purpose of providing lump sum monetary awards to classified employees whose performance exceeds agency expectations. Under the bill, each state agency must certify to the administrator the amount of additional funding the agency needs to make lump sum discretionary merit awards to classified employees. The administrator is then responsible for distributing the additional funding appropriated for this purpose to state agencies to make the lump sum merit awards to classified employees.

Other changes:

1. This bill adds to the current employee performance evaluation program a requirement that each appointing authority conduct an annual performance evaluation of each employee appointed by the appointing authority.

2. This bill requires an appointing authority to permanently maintain employee files, and subject to certain exceptions, prohibits the removal of disciplinary records from employee personnel files.

3. This bill eliminates the requirement that, if the director of the bureau makes certain findings, competition for a vacancy in the classified service must be limited to members of the classified service and the authority of the director to limit competition for promotional opportunities in certain circumstances.

it eliminates

4. This bill requires DOA to consult with each agency to develop a plan, by no later than January 1, 2017, for assuming responsibility for services relating to human resources. This bill also requires DOA to develop a plan to assume responsibility for administering payroll services, finance services, budget and procurement functions, and information technology services for certain state agencies and boards.

5. This bill requires the administrator of DPM and the director of the bureau to review all of the following by no later than January 1, 2017:

- a. The classification of all positions in the state civil service.
- b. The Wisconsin Human Resources Handbook.
- c. The feasibility of requiring all agencies to use electronic personnel files and a uniform personnel evaluation system.
- d. The 2015-17 compensation plan.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*add
space*

END ANALYSIS

INS 19-22

1 3. If the certification list for a position includes an individual who is any of the
 2 following and the appointing authority extends invitations to interview candidates
 3 for the position, the appointing authority shall extend an invitation to interview to
 4 the individual:

- 5 a. A spouse of a disabled veteran whose disability is at least 70 percent.
- 6 b. An unremarried spouse of a veteran who was killed in action.
- 7 c. An unremarried spouse of a veteran who died of a service-connected
 8 disability.

****NOTE: Do you also want the preference for these individuals if all things are equal after interviews?

INS 19-22

INS 20-13

1 **SECTION 1.** 230.25 (2) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 230.25 (2) (b) Unless otherwise provided in this subchapter or the rules of the
4 director, appointments shall be made by appointing authorities to all positions in the
5 classified service from among those certified to them in accordance with this section.
6 Appointments shall be made within ~~60~~ 30 days after the date of certification unless
7 an exception is made by the director. If an appointing authority does not make an
8 appointment within ~~60~~ 30 days after certification, he or she shall immediately report
9 in writing to the director the reasons therefor. If the director determines that the
10 failure to make an appointment is not justified under the merit system, the director
11 shall issue an order directing that an appointment be made.

History: 1971 c. 270 ss. 45, 48; Stats. 1971 s. 16.20; 1977 c. 196 ss. 50, 115, 130 (5), 131; 1977 c. 273; Stats. 1977 s. 230.25; 1983 a. 27; 1985 a. 29; 1987 a. 32; 1991 a. 101; 1997 a. 27, 307; 1999 a. 87; 2003 a. 33; 2015 a. 55.

END INS 20-13

INS 29-3

12 **SECTION 2.** 230.44 (1) (e) of the statutes is amended to read:

13 230.44 (1) (e) *Discretionary performance awards.* This subsection does not
14 apply to decisions of an appointing authority relating to discretionary performance
15 awards under s. 230.12 (5) or under the discretionary performance award program
16 established under s. 230.04 (19), including the evaluation methodology and results
17 used to determine the award or the amount awarded.

History: 1977 c. 196; 1979 c. 221; 1981 c. 140; 1983 a. 27; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 307; 1999 a. 102; 2003 a. 33; 2009 a. 15, 28, 212; 2013 a. 123; 2015 a. 55.

END INS 29-8

1 (b) "Employee" means an employee who has obtained permanent status in class
 2 ^{or} and ^{who} an employee has served with the state as an assistant district attorney or an
 3 assistant state public defender for a continuous period of 12 months or more.

END INS 29-8

INS 33-19

4 (2) HIRING PREFERENCE FOR VETERANS AND SPOUSES OF VETERANS. The creation of
 5 sections 230.25 (2) (am) of the statutes first applies to a certification list for a position
 6 that is originally posted on the effective date of this subsection.

7 (3) MANDATORY REVIEW OF PERSONNEL FILE. The creation of sections 230.15 (7)
 8 of the statutes first applies to an offer of employment made on the effective date of
 9 this subsection.

***NOTE: Please note that the provision requiring the administrator and the director
 to provide access to the personnel files of current employees will not be in effective until
 the effective date of this requirement.

10 (4) PROBATIONARY PERIODS. The treatment of sections 20.28 (1) (a), (am), (b), and
 11 (c) of the statutes first applies to a probationary period that begins on the effective
 12 date of this subsection.

***NOTE: This provision requires an appointing authority to give an interview if
 a certain individual is on a certification list.

END INS 33-19

INS 33-22B

13 (7) GRIEVANCE PROCESS FOR ADVERSE EMPLOYMENT ACTIONS. The treatment of
 14 230.44 (1) (c) of the statutes and the creation of sections 230.445 of the statutes first
 section

1 apply an appeal of an adverse employment action taken against an employee on the
2 effective date of this subsection.

END INS 33-22B

INS 34-1

3 **SECTION 3. Effective dates.** This act takes effect on July 1, 2016, except as
4 follows:

5 (1) STUDY OF THE STATE CIVIL SERVICE SYSTEMS. SECTION 95 [auto-ref], subsection
6 (1) of this act takes effect on the day after publication.

END INS 34-1

Instructions from Jason 9-25 all references to /P4

- ① 230.31 - make changes to reinstatement and restoration prospective only.
- ② 230.16(1)(a) - change civil service to classified service
- ③ Don't repeal 230.16(2). Modify language to apply to competitive procedures
- ④ 230.16(4) - replace eligibility requirements w/ selection criteria (p. 12, line 21)
- ⑤ 230.16(5) - replace applications... evaluations, (p. 13, lines 9-10) w/ any evaluations used in the selection process
- ⑥ 230.16(6) - delete repeal & replace with amendment that modifies language to apply to selection process
- ⑦ 230.16(10) - delete repeal - modify to apply to the ^{selection} hiring process / competitive procedures
- ⑧ 230.16(11) - take out "including" list
- ⑨ Add 230.28(1)(a) - add waiver that is parallel to (1)(am)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

- ⑩ 230.28(1)(c) - strike "lengthened"
- ⑪ 230.34(2)(a) - add "in accordance with rules promulgated by the director"