



## Legislative Fiscal Bureau

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May 8, 2007

Joint Committee on Finance

Paper #606

### **Reassign Certain Executive Positions to New Executive Salary Group Levels (Office of State Employment Relations)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 434, #4]

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#### **CURRENT LAW**

Under current law, state agency executive positions are assigned to one of 10 executive salary groupings. Under the state's biennial compensation plan, approved by the Joint Committee on Employment Relations, a minimum and maximum salary amount is established for each ESG level. Further, current law specifies that the salaries for the unclassified division administrators and bureau directors in the Department of Regulation and Licensing may not exceed the maximum of the salary range for ESG 1.

#### **GOVERNOR**

Reassign the executive salary group (ESG) classifications of: (a) the Secretaries of the Departments of Corrections (Corrections), Health and Family Services (DHFS), Regulation and Licensing (R&L), and Workforce Development (DWD); (b) the Governor's Chief of Staff; (c) the Adjutant General of the Department of Military Affairs (DMA); (d) the Insurance Commissioner; and (e) the Public Service Commissioners (PSC).

Provide that the salaries for the unclassified division administrators and bureau directors in R&L may not exceed the maximum of the salary range for ESG 3.

The ESG assignments for these positions under current law and the proposed assignments under the bill are identified below.

## Proposed ESG Reassignments Under Senate Bill 40

	Current <u>Law</u>	SB 40 <u>Proposed</u>
<b>Departmental Secretaries</b>		
Corrections	ESG 6	ESG 8
Health and Family Services	ESG 9	ESG 8
Workforce Development	ESG 6	ESG 7
Regulation and Licensing	ESG 4	ESG 6
<b>Other Positions</b>		
Governor's Chief of Staff	ESG 4	ESG 6
Military Affairs Adjutant General	ESG 5	ESG 6
Insurance Commissioner	ESG 5	ESG 6
Public Service Commissioners	ESG 5	ESG 6
R&L Division Administrators and Bureau Directors (not to exceed maximum of)	ESG 1	ESG 3

### DISCUSSION POINTS

1. Table 1 shows the annual salary ranges currently in effect for the period April 1, 2007 to June 23, 2007. Pay ranges after June 23, 2007, have not yet been established.

**TABLE 1**

#### Executive Salary Group Annual Pay Ranges

	<u>April 1, 2007, to June 23, 2007</u>	
	<u>Minimum</u>	<u>Maximum</u>
ESG-1	\$57,662	\$89,377
ESG-2	62,277	96,530
ESG-3	67,261	104,256
ESG-4	72,644	112,600
ESG-5	78,457	121,609
ESG-6	84,733	131,337
ESG-7	91,513	141,846
ESG-8	98,835	153,197
ESG-9	106,743	165,453
ESG-10	115,283	178,689

2. Administration officials indicate that the ESG provisions under the bill are intended to adjust ESG assignments in order to: (a) equalize pay ranges for certain executives with other executives with similar responsibilities; and (b) address certain compensation "compression" issues with respect to classified civil service pay schedules for senior managers and represented and

nonrepresented attorneys. The ESG provisions under the bill have been reviewed by the Office of State Employment Relations (OSER), which has provided justification for each of the proposed changes.

3. According to OSER officials, the Corrections secretary should be reassigned from ESG 6 to ESG 8 because of the extensive additional responsibilities associated with the growth of the Department and its institutions and programs through the years. Currently, only the DOA Secretary is assigned to ESG 8. OSER indicates that its predecessor, the Department of Employment Relations (DER), proposed a reassignment of the Secretary of Corrections from ESG 6 to ESG 7 in 2001 Senate Bill 223, but the legislation to affect this change did not pass.

4. The DHFS Secretary, the only executive position currently assigned to ESG 9, would be reassigned to ESG 8 to reflect a reduction in its program responsibilities (Corrections was a division of the then Department of Health and Social Services, but was made a separate agency on January 1, 1990). OSER also indicates that there is no reason to assign the DHFS Secretary to a higher ESG level than the Secretaries of Administration and Corrections.

5. The proposed reassignment of the Secretary of DWD from ESG 6 to ESG 7 is recommended by the Governor on the basis of the growth through the years of this agency and its programs. OSER indicates that DER also proposed this change in 2001 Senate Bill 223, but, as noted above, the bill failed to pass.

6. Four of the recommended reassignments [Secretary of R&L (currently at ESG 4), the Adjutant General of DMA (ESG 5), the Commissioner of Insurance (ESG 5), and the PSC Commissioners (ESG 5)] are based, in part, on an initiative to have all cabinet-level heads of multi-program agencies assigned to at least ESG 6. Currently, the Secretary of R&L is the only cabinet agency head assigned to ESG 4.

7. The Governor's chief of staff (currently ESG 4) would also be reassigned to ESG 6. OSER indicates that this is to address potential pay compression issues with subordinate-level positions in the Governor's Office. It is also argued that the responsibilities of the chief of staff position equal or exceed those of the agency head positions currently assigned to ESG 6.

8. Finally, the bill would provide that the salaries of division administrators and bureau directors at R&L may not exceed the maximum of the salary range for ESG 3. Under current law, the salaries for these positions may not exceed the salary range for ESG 1. OSER indicates that the R&L division administrators are the only division administrators limited to the ESG 1 range and that there is no justification for this assignment.

9. OSER indicates that for five of the nine ESG reclassifications proposed under the bill (R&L Secretary, R&L division administrators and bureau directors, DMA Adjutant General, Insurance Commissioner, and PSC Commissioners), the change should be considered because of salary compression issues with nonrepresented senior management positions and nonrepresented professional legal positions (attorneys).

10. Salary compression refers to the development where the pay for subordinates closely approaches or exceeds the pay for supervisors or agency heads. Because senior management and attorney positions are generally career positions, some incumbents approach the maximum salaries in their respective pay ranges. Table 2 shows the current minimum and maximum salaries for the top two pay ranges for senior managers and the pay range applicable to nonrepresented state attorneys.

**TABLE 2**

**Current Salary Ranges**

<u>Position</u>	<u>Pay Range</u>	<u>Minimum</u>	<u>Maximum</u>
Senior Manager	81-01	\$57,663	\$122,524
Senior Manager	81-02	51,188	112,832
Attorney	71-01	47,037	113,657

11. In contrast, the current minimum and maximum salaries for executive salary group positions for the ESG levels applicable to the R&L Secretary, R&L division administrators and bureau directors, DMA Adjutant General, Insurance Commissioner, and PSC Commissioners, (under both current law and under the bill) are shown in Table 3.

**TABLE 3**

**Selected Current ESG Salaries**

	<u>April 1, 2007, to June 23, 2007</u>	
	<u>Minimum</u>	<u>Maximum</u>
ESG-1	\$57,662	\$89,377
ESG-2	62,277	96,530
ESG-3	67,261	104,256
ESG-4	72,644	112,600
ESG-5	78,457	121,609
ESG-6	84,733	131,337

12. Currently, the R&L Secretary's maximum (ESG 4) is exceeded by the maximums for senior managers and attorneys. ESG 5 positions (currently DMA Adjutant General, Insurance Commissioner, and PSC Commissioners) have a maximum salary that is exceeded only by the maximum for senior managers in the 81-01 pay range. The proposed reassignment of these positions to ESG 6, with a maximum salary of \$131,337, would provide a higher maximum than provided for senior managers and attorneys.

13. It should be noted, however, that most senior managers and attorneys do not attain

the maximum salaries identified in Table 2. Further, the actual salaries of agency Secretaries assigned to ESG levels 4 to 9 are all below the maximum salaries specified for those ESG levels (Table 3). [The attachment to this paper provides a listing of ESG levels for the heads of cabinet-level agencies, and selected non-cabinet officials.]

14. However, there are instances of senior management and attorney employees exceeding the compensation of agency heads, deputies, and executive assistants. While no comprehensive data is available, OSER has identified a number of occurrences. For example, 11 attorneys at the PSC are currently paid more than one of the Commissioners and seven are paid more than a second Commissioner. An attorney at the Office of the Commissioner of Insurance is currently paid more than the Deputy. At R&L, 11 attorneys are paid more than the executive assistant.

15. While salary compression is an issue, ESG agency heads do not generally earn less than their senior managers or attorneys. OSER officials indicate, rather, that this has happened and could potentially occur more frequently in the future. OSER argues that salary compression will become a larger issue unless the current ESG assignments for these positions are addressed. Further, such modifications may be viewed as consistent with the intent of state law. In a purpose statement on statutory salaries for executive-level unclassified positions under s. 20.923 of the statutes, it is stated that, "The salary-setting mechanism contained in this section shall be directed to establishing salaries that are determined on a comprehensive systematic basis, bear equitable relationship to each other and to the salaries of classified service subordinates."

16. Salary compression issues are also cited for the proposed reassignment of the Governor's Chief of Staff from ESG 4 to ESG 6. Under current law, the salary for key professional staff in the Governor's office other than the executive secretary (Chief of Staff) may not exceed the maximum salary for ESG 3. The ESG 4 maximum salary (\$112,600) for the Chief of staff exceeds the ESG 3 maximum salary (\$104,256) that limits the compensation of other professional staff in the Governor's office. Absent the proposed ESG reassignment, the salary for the Chief of Staff is effectively frozen at this time because it is already at the maximum for ESG 4. As noted above, the ESG reassignment for the Chief of Staff is also justified by OSER on the basis of work responsibilities.

17. Approval of the SB 40 ESG provisions would also affect the allowable salary maximums for departmental deputies and executive assistants. Under current law, the salary of a deputy may not exceed the maximum of the salary range one range below that of the ESG range to which the department or agency head is assigned. The salary for an executive assistant in the affected agencies may not exceed the maximum of the salary range 2 ranges below that of the ESG range to which the department or agency head is assigned. As a result of these provisions, the approval of the ESG reassignments under the bill would modify the potential maximum salaries for affected deputies and executive assistants. In all but two cases, the ESG reassignments under the bill would increase the maximum allowable salaries for deputies and executive assistants. The maximum allowable salaries for the deputy and executive assistant in DHFS would decrease because the DHFS Secretary would be reassigned to a lower ESG level.

18. Seven deputy positions would be affected under the bill's provisions, including one deputy for each of the four departmental secretaries, one deputy for the Insurance Commission and two deputies for the Adjutant General. There are eight executive assistants affected, including one executive assistant for each of the four departmental secretaries, one for the Adjutant General, and one for each of the three PSC Commissioners.

19. If the SB 40 provisions for ESG reassignments are adopted, it is not clear at this time whether any actual compensation increases would be provided to either the agency heads affected or their deputies and executive assistants. Any individual whose ESG level is increased a level (and the deputies and executive assistants whose salaries are indexed to ESG levels) would be eligible to receive a salary increase at the discretion of the appointing authority. These increases are limited to 3% of the minimum of the new pay range. For example, an individual moving from ESG 5 to ESG 6 would be eligible to receive an annual increase of 3% of the ESG 6 minimum salary (\$84,733), or \$2,543.

20. The appointing authority for all of the agency-head positions specified in the SB 40 provisions is the Governor. The appointing authority for the R&L division administrators and bureau directors is the R&L Secretary. The deputies and executive assistants are appointed by the respective agency heads.

21. If all of the SB 40 ESG reassignments are adopted, and the Governor were to approve increases for the affected agency heads, the total annualized increase would be \$35,600 (all funds). This amount includes the potential increases for the PSC Commissioners. However, PSC Commissioners are paid under contracts covering their term of office. Consequently, PSC Commissioner compensation increases could not be provided until new contracts are executed for subsequent terms. In addition, the estimated potential increase does not include any increase for the DHFS Secretary who would be reassigned to a lower ESG level. Potential increases are only authorized for a reassignment to a higher ESG level.

22. If all deputies and executive assistants affected by the bill's provisions were to receive the allowable increases, the total annualized increase would be \$30,500 (all funds). This estimate does not include a compensation adjustment for the deputy and executive assistant in DHFS, again, because increases are only authorized for a reassignment to a higher ESG level.

23. Thus, the maximum annualized fiscal effect would be estimated at \$66,100 (all funds).

24. Any future salary increases that may occur in the 2007-09 biennium cannot be determined or budgeted for at this time. It is likely that any pay increases could be absorbed within a given agency's budget. Under current procedures, if required salary and fringe benefits amounts exceed the amount budgeted in an agency appropriation in a given fiscal year, the shortfall would be funded from pay plan supplements.

25. The Governor's provisions to reassign certain positions to different ESG groups

appear to have justification in terms of promoting more consistency among agency secretaries (who, under the proposal, would all be assigned no lower than ESG 6) and addressing the salary compression issues discussed above. The proposed changes have been reviewed and are supported by OSER. It also appears that the changes would have minimal fiscal effect in the 2007-09 biennium. Given these factors, the Committee may wish to approve the Governor's recommendations for these ESG reassignments.

26. It should also be noted that under SB 40, beginning July 1, 2008, a new Department of Children and Families (DCF), would be created to administer a number of programs currently overseen by DWD and DHFS. The Secretary of DCF would be assigned to ESG 6. In considering the ESG reassignment of the Secretaries of DWD and DHFS, the proposed transfer of program responsibilities to the new Department is relevant.

27. The programs that would be transferred from DWD to the new agency include Wisconsin Works (W-2), the Wisconsin Shares child care subsidy program, child support enforcement, and other temporary assistance for needy families (TANF)-related programs. The bill would also transfer responsibility for the FoodShare employment and training program from DWD to DHFS, beginning in 2007-08. These program transfers would reduce DWD's annual budget by \$687.0 million and decrease its position count by 167.01 FTE. DWD's adjusted base funding and position levels are \$1,045.1 million and 1,902.15 FTE positions (all funds). Therefore, the proposed transfers would reduce DWD's budget by approximately 66% and reduce its FTE staff by about 9%. Under the bill, including all changes to base, DWD would retain total funding of \$328.7 million, with 1,720.09 FTE positions (all funds).

28. The bill would also transfer the DHFS Division of Children and Family Services (which includes the Bureau of Milwaukee Child Welfare), child abuse and neglect prevention programs, food distribution and hunger prevention programs, and the women, infants and children (WIC) supplemental food program to DCF. The Governor's proposal would transfer 370 DHFS positions to the new Department and \$434.2 million (all funds), beginning in 2008-09. DHFS would retain responsibility for administering the state's health programs (including medical assistance), programs that serve elderly, blind, and disabled individuals, and several state residential facilities. DHFS's adjusted base funding and position levels are \$6,675.4 million and 5,771.45 FTE positions (all funds). The proposed transfers to DCF would reduce DHFS's budget by approximately 6.5% and reduce its FTE staff by about 6.4%. Under the bill, the DHFS total funding would actually increase to \$7,258.4 million (primarily due to MA benefits funding), despite the transfers to DCF. Position authority under the bill would total 5,518.03 FTE positions.

29. The Committee may want to approve the reassignment of some, but not all, of the positions included in the Governor's proposal. Alternative 2 in this paper allows the Committee to designate those positions it wishes to reassign.

30. Finally, the Committee may feel that the proposed ESG reassignments should be given greater scrutiny, outside the budget process, by the Joint Committee on Employment Relations (JCOER). In this case, the Committee could delete the provision. Separate legislation

could be introduced regarding this matter that could be referred to JCOER for public hearings and a recommendation.

**ALTERNATIVES TO BILL**

1. Approve the Governor's provision to reassign the ESG classifications of: (a) the Secretaries of the Departments of Corrections, Health and Family Services, Regulation and Licensing, and Workforce Development; (b) the Governor's Chief of Staff; (c) the Adjutant General of the Department of Military Affairs; (d) the Insurance Commissioner; and (e) the Public Service Commissioners.

Provide that the salaries for the unclassified division administrators and bureau directors in Regulation and Licensing may not exceed the maximum of the salary range for ESG 3.

The ESG assignments for the positions under current law and as reassigned are shown in the following table.

	<u>Current Law</u>	<u>Reassign To</u>
<b>Departmental Secretaries</b>		
Corrections	ESG 6	ESG 8
Health and Family Services	ESG 9	ESG 8
Workforce Development	ESG 6	ESG 7
Regulation and Licensing	ESG 4	ESG 6
<b>Other Positions</b>		
Governor's Chief of Staff	ESG 4	ESG 6
Military Affairs Adjutant General	ESG 5	ESG 6
Insurance Commissioner	ESG 5	ESG 6
Public Service Commissioners	ESG 5	ESG 6
R&L Division Administrators and Bureau Directors (not to exceed maximum of)	ESG 1	ESG 3

2. Approve the ESG reassignment of one or more of the following positions:

	<u>Current Law</u>	<u>Reassign To</u>
<b>Departmental Secretaries</b>		
a. Corrections	ESG 6	ESG 8
b. Health and Family Services	ESG 9	ESG 8
c. Workforce Development	ESG 6	ESG 7
d. Regulation and Licensing	ESG 4	ESG 6
<b>Other Positions</b>		
e. Governor's Chief of Staff	ESG 4	ESG 6
f. Military Affairs Adjutant General	ESG 5	ESG 6
g. Insurance Commissioner	ESG 5	ESG 6
h. Public Service Commissioners	ESG 5	ESG 6
i. R&L Division Administrators and Bureau Directors (not to exceed maximum of)	ESG 1	ESG 3

3. Delete provision.

Prepared by: Art Zimmerman  
Attachment



## ATTACHMENT

### Cabinet Officials and Selected Non-Cabinet Officials Executive Salary Group (ESG) Levels

<u>Department/Agency</u>	<u>Current ESG Level</u>
<b>Cabinet Agencies</b>	
Governor	21.6% above the minimum of ESG-10
Lieutenant Governor	1.9% above the minimum of ESG-4
Health and Family Services	ESG-9
Administration	ESG-8
Natural Resources	ESG-7
Revenue	ESG-7
Transportation	ESG-7
State Employment Relations, Office of	ESG-6
Agriculture, Trade and Consumer Protection	ESG-6
Corrections	ESG-6
Commerce	ESG-6
Financial Institutions	ESG-6
Workforce Development	ESG-6
Tourism	ESG-6
Housing and Economic Development	Outside civil service, with salary set by WHEDA Board, at no more than the maximum of ESG-6
Insurance	ESG-5
Public Service Commission	ESG-5
Regulation and Licensing	ESG-4
Chief of Staff, Governor's Office	ESG-4
<b>Non-Cabinet Officials</b>	
Attorney General	18% above the minimum of ESG-10
State Superintendent of Public Instruction	27.4% above the minimum of ESG-7
Secretary of State	15.4% above the minimum of ESG-1
State Treasurer	15.4% above the minimum of ESG-1