



Legislative Fiscal Bureau

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June 2, 2011

Joint Committee on Finance

Paper #746

Classified Employees (UW-Madison Authority and UW System)

[LFB 2011-13 Budget Summary: Page 469, #15, 16 and 18, and 470, #19]

CURRENT LAW

The state is the employer for the purposes of collective bargaining and is responsible for the employer function under the State Employment Labor Relations Act (SELRA) for all classified state employees. The Office of State Employee Relations (OSER) negotiates with labor organizations representing state employees on behalf of the state and is required to notify and consult with the Joint Committee on Employment Relations (JCOER) regarding substantial changes in wages, employee benefits, personnel management, and program policy contract provisions to be included in any contract proposal to be offered to any labor organization by the state or to be agreed to by the state before such proposal is actually offered or accepted. During the biennium, state agencies receive pay plan supplements through the compensation reserves to fund increases in salaries and fringe benefits approved through labor contracts. State agencies may request full funding of salaries and fringe benefits as standard budget adjustments through the biennial budget process.

The OSER director establishes the duties, authority, and responsibilities of each position in the classified service, assigns each position to a job classification, and assigns and reassigns job classifications to salary ranges. (Under current law, the assignment and reassignment of job classifications to salary ranges is a subject of collective bargaining. Under 2011 Act 10, only base wages would be subject to collective bargaining.) Recruitment and hiring procedures for classified employees are established by statute. Statutes also specify the procedures for the demotion, suspension, discharge, and layoff of employees.

GOVERNOR

Transfer all UW System employees assigned to UW-Madison to the UW-Madison authority on the effective date of the bill. Provide that the UW-Madison authority would be

considered a state agency for employment purposes until July 1, 2012. Require the UW-Madison authority to adhere to the terms of any collective bargaining agreement covering those employees, including terms relating to employer payment of any employee required contributions to the Wisconsin Retirement System and employer payment of health insurance premiums, until July 1, 2012. Provide that all classified employees transferred to the UW-Madison authority would have the rights and privileges of classified employees until July 1, 2012.

Require the Board of Trustees to develop and implement effective July 1, 2012, a personnel system that would be separate and distinct from the state's personnel system. Provide that the system would be developed and implemented with the active participation of the faculty and academic staff. Require that in developing the system, the Board provide for the transfer of classified civil service employees to the system as necessary on July 1, 2012. Beginning on July 1, 2012, the UW-Madison authority would establish the compensation and benefits of employees under the terms of the new personnel system. Specify that, beginning on July 1, 2012, all Board of Trustees employees in the classified service who have achieved permanent status and who became Board of Trustees employees before July 1, 2012, could be dismissed only for just cause and only after due notice and hearing. Provide that the Board of Trustees would be able to make or authorize appointments for former classified service employees. Specify that all such appointments made on or after July 1, 2012, would have the procedural guarantees included in the personnel system developed by the Board of Trustees and implemented on that date.

Provide that the UW-Madison would be the employer of represented UW-Madison staff for the purposes of collective bargaining and would be responsible for the employer function under SELRA. Exclude UW-Madison collective bargaining activities from a current law requirement that OSER notify and consult with JCOER regarding substantial changes in wages, employee benefits, personnel management, and program policy contract provisions to be included in any contract proposal to be offered to any labor organization by the state or to be agreed to by the state before such proposal is actually offered or accepted. Provide that any tentative agreement reached between the UW-Madison, acting for the state, and any UW-Madison labor organization, would, after official ratification by the labor organization, be executed by the parties.

DISCUSSION POINTS

1. As of April 1, 2011, the UW System reported having 9,967 classified FTE positions and 19,767 unclassified FTE positions, which include faculty and academic staff positions. Unlike most other state agencies, where classified employees are over 90% of the workforce, classified employees are only about one-third of all UW System employees. At UW-Madison, there are 5,169 classified and 9,558 unclassified FTE positions.

2. UW System and UW-Madison have stated that having two different personnel systems, one for classified employees and one for unclassified employees, creates confusion amongst employees and is administratively burdensome. Both UW System and UW-Madison have indicated that they would like to eliminate the distinction between classified and unclassified

employees and create one singular personnel system.

3. UW System and UW-Madison have identified several areas of concern related to current procedures for classified employees. Under current law, OSER establishes the duties, authority, and responsibilities of each position in the classified service and assigns those positions to job classifications. Both UW System and UW-Madison have indicated that in some cases the duties and responsibilities assigned to positions by OSER do not match the actual duties and responsibilities of those positions. This can make recruiting for a position difficult as the UW System and UW-Madison cannot accurately convey to applicants the skills and qualifications they are looking for. If UW System or UW-Madison had the ability to create new job classifications and assign duties and responsibilities to those job classifications, as the UW-Madison authority would be able to do under the bill, the UW System and UW-Madison could post more accurate job openings which could result in a better qualified applicant pool.

4. Under current law, OSER has the authority to assign and reassign job classifications to salary ranges. The UW System and UW-Madison have indicated that some job classifications are assigned to salary ranges that are below the market rate for those positions, making it difficult to recruit applicants. In many cases, this is because positions that require specialized skills are grouped in the same classification as positions that require less specific skills. By allowing the UW System or UW-Madison to create new job classifications and assign those classifications to salary ranges, the UW System or UW-Madison may be able to recruit more highly skilled employees. This may be more of an issue for UW-Madison given its emphasis on research and the need to recruit employees to work in specialized laboratory environments. (Under current law, the assignment and reassignment of job classifications to salary ranges is a subject of collective bargaining. Under 2011 Act 10, this would no longer be a subject of bargaining. At this time it is unknown if OSER would be more or less likely to reassign job classifications to different salary ranges, if Act 10 becomes law.)

5. Recruitment and hiring procedures for classified employees are established by state statute. When UW institutions post an opening, OSER provides the institution with a list of applicants who meet the minimum qualifications for the position. UW System and UW-Madison staff have indicated that these lists are often outdated and include applicants statewide, many of whom may be unwilling to relocate for a position at one of the institutions. If UW System and UW-Madison were permitted to establish their own recruitment and hiring policies, individual institutions could advertise job openings locally making it more likely that the applicants would live near the job location.

6. UW System and UW-Madison staff report that statutes governing the demotion, suspension, discharge, and layoff of employees make it difficult to discipline employees for poor performance. Conversely, there is little ability to reward employees for good or excellent performance due to limitations on salaries, which are specified in labor contracts. As labor contracts generally do not allow the UW institutions to provide salary increases on the basis of merit, classified employees may only be eligible for raises if they move to a new position. In addition, no discretionary compensation adjustments, which had previously been used to address merit, have been included in recent state compensation plans. UW System and UW-Madison have expressed that it can be difficult to retain qualified employees and that there is little incentive to

invest in employee training due to high turnover.

7. The issues identified by the UW System and UW-Madison are likely to be issues for all agencies that employ classified staff. Some issues may be unique to UW-Madison due to the size and sophistication of its research program. In addition, these problems may be more pronounced at UW institutions than at other state agencies because the majority of UW employees are unclassified and are not subject to the same rules and procedures as classified employees. Under current law, the Board of Regents has the authority to assign unclassified positions to job categories, to assign unclassified job categories to salary ranges, and to establish recruitment and hiring procedures for unclassified positions.

8. However, one of the functions of OSER is to ensure that all qualified applicants be considered for state jobs and that employees who perform similar jobs across state agencies receive similar levels of compensation. If the UW System or UW-Madison is granted the authority to create job classifications, assign job classifications to pay ranges, and bargain labor contracts with its employees without oversight by OSER, it is possible that UW System or UW-Madison classified employees would receive levels of compensation different than similar employees at other state agencies. However, if 2011 Act 10 becomes law, collectively bargained general salary increases provided under state labor contracts, which would include contracts bargained by the UW-Madison authority, would be limited to increases in the consumer price index (CPI). Given this limitation, it is unlikely that the UW-Madison authority would be able to provide general salary increases to its classified employees that would be significantly greater than increases provided to other classified state employees. In addition, merit increases to selected employees may be limited or not permissible, depending on what policy is established in the compensation plan for state employees.

9. When the UW Hospitals and Clinics was created as an authority under the 1995-97 biennial budget, the UW Hospitals and Clinics was granted the authority to create its own personnel system and to bargain labor contracts with its employees. If UW-Madison is created as an authority, the bill provisions related to classified employees could be viewed as being consistent with that status. (Unlike what is provided for the UW-Madison authority, some UW Hospitals and Clinics employees remained state employees instead of employees of the Authority. Under 2011 Act 10, all employees of the UW Hospitals and Clinics who were state employees would become employees of the UW Hospitals and Clinics Authority. In addition, all UW Hospitals and Clinics Authority employees would no longer have collective bargaining rights under SELRA.)

10. Under the Wisconsin Idea Partnership proposed by the UW Board of Regents, the UW System would have the authority to administer the civil service system for UW System employees and would bargain as the employer with labor unions representing UW System employees. Although UW System employees would remain state employees, they would not be considered state employees for reporting purposes.

11. Since the UW System has cited many of the same concerns regarding classified employees as UW-Madison, the Committee may wish to grant certain flexibilities in this area to the Board of Regents if such flexibilities are granted to UW-Madison. However, the language proposed in the Wisconsin Idea Partnership may be overly broad. If the Committee wished to grant flexibilities with regard to classified employees to the UW System, the Committee could authorize

the Board of Regents to: (1) bargain as the employer with labor unions representing UW System employees; (2) specify the duties, authority, and responsibilities of each UW System position in the classified service and assign each position to a job classification; (3) assign and reassign job classifications to salary ranges; and (4) establish policies for the recruitment and hiring of classified employees.

Compensation

12. If the Committee permits the Board of Regents to bargain as the employer with labor unions representing UW System employees, the Board of Regents could approve increases in base wages greater than would be provided under other state labor contracts if these contracts provided increases less than CPI. Unless the Committee were to require the Board of Regents to fund these increases with their own resources, these increases would increase the state's future compensation obligations. Under current law, all agencies, including the UW System, receive pay plan supplements through the compensation reserves to fund salary and fringe benefit increases approved by JCOER during the biennium. Agencies request full funding of salaries and fringe benefits as a standard budget adjustment through the biennial budget process. GPR funding provided to the UW System for full funding of salaries and fringe benefits in recent biennia has been significant. The UW System received \$20,363,500 annually for full funding of salaries and fringe benefit costs in the 2005-07 biennium; \$45,707,400 in 2007-08 and \$47,163,000 in 2008-09; and \$37,552,600 annually in the 2009-11 biennium. The bill would provide the UW System with \$61,693,800 GPR annually for the full funding of salaries and fringe benefit costs previously approved by JCOER.

13. Under the bill, UW-Madison would have to fund salary and fringe benefit increases using their own resources, which would include GPR base funding, tuition, gifts and grants, and other resources; would not receive pay plan supplements during this or future biennia; and would not request standard budget adjustments for full funding for salaries and fringe benefits beginning in the 2013-15 biennium. Under the Wisconsin Idea Partnership proposed by the Board of Regents, the UW System would similarly not receive pay plan supplements or full funding of salaries and fringe benefits in the future. UW-Madison and the UW System have proposed that if GPR funding were to be provided in the form of a block grant, percentage increases could be provided through the biennial budget to fund increases in salaries and fringe benefits and other costs. However, if no increases are provided, UW-Madison and the UW System would have to fund these costs through internal reallocations, tuition increases, or increases in other revenues such as gifts and grants. Given UW-Madison's unique access to other funding streams, UW-Madison may be able to fund increases in salary and fringe benefit costs in the case that additional GPR is not provided to fund these costs in the future. However, given that federal grants and contracts and gifts and grants make up a smaller portion of all other UW System institutions' budgets, those institutions may have a more limited ability to fund increases in salary and fringe benefit costs in the absence of additional state GPR funds.

14. Under the bill, the UW-Madison GPR block grant provided under the bill includes amounts intended to correspond to the amount of money that UW-Madison would have received in pay plan supplements (\$7 million in 2011-12 and \$14 million in 2012-13). Based on UW payroll data, it is estimated that \$2.4 million in 2011-12 and \$4.8 million in 2012-13 could be attributed to pay plan supplements that would have been provided for classified employees. Under the

Wisconsin Idea Partnership, the UW System would similarly not receive pay plan supplements. If the Committee authorizes the UW System to bargain contracts with its classified employees, subject to SELRA, and requires the UW System to fund any contract increases provided with its own resources, the Committee could increase the amount of GPR provided for the UW System by \$2.4 million in 2011-12 and \$4.8 million in 2012-13 and reduce the amounts provided in the compensation reserve by those amounts. These amounts would be consistent with the amounts provided under the bill for UW-Madison. Conversely, if the Committee does not approve the bill provisions and UW-Madison would continue to receive pay plan supplements for classified employees, the Committee could reduce the GPR provided to UW-Madison by \$2.4 million in 2011-12 and \$4.8 million in 2012-13 and increase the compensation reserves by those amounts.

Graduate Assistants

15. Graduate assistants are considered temporary employees; they are not considered to be classified or unclassified employees. Current law creates collective bargaining units for the following graduate student assistants: (a) program, project, and teaching assistants at UW-Madison and UW-Extension; (b) program, project, and teaching assistants at UW-Milwaukee; (c) program, project, and teaching assistants at UW-Eau Claire, UW-Green Bay, UW-La Crosse, UW-Oshkosh, UW-Parkside, UW-Platteville, UW-River Falls, UW-Stevens Point, UW-Stout, UW-Superior, and UW-Whitewater; (d) research assistants at UW-Madison and UW-Extensions; (e) research assistants at UW-Milwaukee; and (f) research assistants at UW-Eau Claire, UW-Green Bay, UW-La Crosse, UW-Oshkosh, UW-Parkside, UW-Platteville, UW-River Falls, UW-Stevens Point, UW-Stout, UW-Superior, and UW-Whitewater. Unions representing graduate student assistants have been recognized at both UW-Madison and UW-Milwaukee. These unions represent over 4,000 graduate assistant including over 3,000 at UW-Madison and over 1,000 at UW-Milwaukee.

16. Under current law, OSER negotiates with labor organizations representing state employees, including UW graduate assistants, on behalf of the state. Under the bill, the UW-Madison authority Board of Trustees would negotiate labor contracts with graduate student assistants at that campus. The UW System is the only state agency that employs graduate assistants. Graduate student assistants may be unique amongst represented state employees; all are temporary employees and most are part-time. Given the nature of their employment, graduate assistants do not participate in the Wisconsin Retirement System but are eligible for group health insurance. Under current law, the UW System may grant tuition remissions to graduate assistants who have at least a 33% appointment. Under the terms of the most recent contract, all UW-Madison and UW-Milwaukee graduate assistants who have at least a 33% appointment receive tuition remissions. Due to the high cost of graduate student tuition, especially for nonresident students, these tuition remissions are viewed as being a significant portion of total graduate student assistant compensation.

17. One of the reasons why OSER bargains contracts for all state employees is to ensure that employees performing the similar duties receive the similar compensation regardless of which state agency that employs them. However, this may not be a concern with regard to graduate student assistants who are only employed by the UW System and who are unlike other state employees in a number of ways. In addition, the majority of UW-Madison and UW-Milwaukee are funded from sources other than state GPR and tuition. According to data provided by the UW

System, an estimated 62% of UW-Madison graduate assistants are funded with sources other than GPR and tuition; at UW-Milwaukee, an estimated 85% of graduate assistants are funded with other sources. The state may have less of an interest in limiting compensation for graduate assistants who are not funded with state GPR and tuition revenues. For these reasons, the Committee may want to permit UW-Madison or the UW System to bargain as the employer with graduate assistant unions. Again, such bargaining may be subject to the limitations imposed by Act 10.

Position Creation Authority

18. Under current law, the UW System Board of Regents may create or abolish positions that are funded through: (a) its largest general purpose revenue appropriation for general program operations, subject to the conditions established in a memorandum of understanding with the Department of Administration (DOA); (b) certain program revenue appropriations, including the auxiliary enterprises, general operations receipts, and gifts and donations appropriations; (c) federal appropriations for aid and indirect cost reimbursement; (d) certain revenues credited to the academic fees (tuition) appropriation; and (e) all segregated fund appropriations. Positions that are funded through all other non-federal appropriations may be created or abolished only by the full Legislature or the Joint Committee on Finance under s. 13.10.

19. Under the bill, the UW-Madison authority Board of Trustees would have the authority to create or abolish positions on all fund sources consistent with its status as an authority. As the Board of Trustees would fund salaries and fringe benefit cost for its employees with its own resources, the creation of additional employees would not increase the state's future funding obligations. Under the Wisconsin Idea Partnership, the Board of Regents would similarly be granted the authority to create and abolish positions on all fund sources. If the Committee grants the Board of Regents the authority to create and abolish positions but the UW System remains eligible for pay plan supplements and full funding of salaries and fringe benefits through standard budget adjustments, the Committee may wish to specify that positions created by the Board of Regents and funded with GPR and tuition would not be included in pay plan supplement and standard budget adjustment requests unless the positions are approved by the Legislature.

ALTERNATIVES

A. UW-Madison Authority

1. Approve the Governor's recommendations.
2. Delete provisions. Reduce GPR provided to UW-Madison by \$2.4 million in 2011-12 and \$4.8 million in 2012-13 and increase the compensation reserves by those amounts.

B. UW System

1. Provide that the UW System would be the employer of represented UW System staff for the purposes of collective bargaining and would be responsible for the employer function under SELRA. The Board of Regents would no longer receive pay plan supplements for classified

employees from the compensation reserve during the biennium and would not request full-funding of salaries and fringe benefits for these employees as a standard budget adjustment beginning in the 2013-15 biennium. Increase GPR funding for the UW System by \$2.4 million in 2011-12 and by \$4.8 million in 2012-13 and reduce the compensation reserves by the same amount to reflect that UW System would not receive pay plan supplements for classified employees during the biennium.

Authorize the Board of Regents to: (1) specify the duties, authority, and responsibilities of each UW System position in the classified service and to assign each position to a job classification; (2) assign and reassign job classifications to salary ranges; and (3) establish policies for the recruitment and hiring of classified employees. Exempt Board of Regents classified employees from current law provisions in these areas.

2. Take no action.

C. Position Creation Authority

1. Authorize the Board of Regents to create and abolish positions on all fund sources. Specify that positions created by the Board of Regents and funded with GPR and tuition would not be included in pay plan supplement and standard budget adjustment requests unless the positions are approved by the Legislature.

2. No action.

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