

State of Wisconsin



1999 Senate Bill 268

Date of enactment: **April 25, 2000**

Date of publication*: **May 8, 2000**

1999 WISCONSIN ACT 102

AN ACT to repeal 20.923 (6) (n), 230.16 (8) and 230.20 (3); to amend 230.12 (1) (c) 2., 230.33 (1), 230.33 (2), 230.34 (1) (a), 230.34 (1) (ar), 230.40 (2) and 230.44 (1) (c); and to create 230.33 (1m) of the statutes; relating to: restoration and reinstatement rights of classified employees appointed to unclassified positions; leaves of absence from state employment to seek partisan political office; compensation and employment rights of assistant district attorneys; the salary of the position of Wisconsin veterans museum superintendent; authority of the administrator of the division of merit recruitment and selection in the department of employment relations to appoint local examiners; and solicitation of recommendations for positions in the classified service of the state (suggested as remedial legislation by the department of employment relations).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of employment relations and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 20.923 (6) (n) of the statutes is repealed.

NOTE: Under current law, the salary of the superintendent of the Wisconsin veterans museum is established by the secretary of veterans affairs. However, there is no such position. Therefore, this section is repealed.

SECTION 2. 230.12 (1) (c) 2. of the statutes is amended to read:

230.12 (1) (c) 2. The secretary may establish a plan of extra compensation for work performed during selected hours at an hourly rate or rates subject to approval of the joint committee on employment relations. ~~The secretary may establish a plan of extra compensation for assistant district attorneys, which may~~

~~include extra compensation for work performed during selected hours or for special duty such as on-call duty, at hourly rates subject to the approval of the joint committee on employment relations.~~ Eligibility for such extra compensation shall be as provided in the compensation plan.

NOTE: This provision is amended to eliminate the authority of the secretary of employment relations to establish a plan of extra compensation for assistant district attorneys. The effect of this change is that the assistant district attorneys whose compensation is established in the compensation plan will be governed by the general extra compensation provisions of that plan.

SECTION 3. 230.16 (8) of the statutes is repealed.

NOTE: Currently, the administrator of the division of merit recruitment and selection in the department of employment relations is authorized to designate a person in or out of state government or any person employed by a municipal or county government to act as a local examiner for filling positions in state government. The provision is not used. Therefore, it is repealed.

SECTION 4. 230.20 (3) of the statutes is repealed.

NOTE: Currently, applicants for a promotion to a position in the classified service in Wisconsin may not solicit "recommendations". This bill eliminates the prohibition.

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 5. 230.33 (1) of the statutes is amended to read:

230.33 (1) A person appointed to an unclassified position by the governor, elected officer, judicial body or by a legislative body or committee, ~~or by any other appointing authority when both the classified and unclassified positions are within his or her department,~~ shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter, during which time the person has restoration rights to the former position or equivalent position in the department in which last employed in a classified position without loss of seniority. The person shall also have reinstatement privileges for 5 years following appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from the former position in the classified service.

NOTE: This provision is amended to limit its applicability to persons appointed to an unclassified position by the governor, elected official judicial body or by a legislative body or committee.

SECTION 6. 230.33 (1m) of the statutes is created to read:

230.33 (1m) A person appointed to an unclassified position by an appointing authority other than an appointing authority described under sub. (1), when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter, during which time the person has restoration rights to the former position or equivalent position in the department in which last employed in a classified position without loss of seniority. The person shall also have reinstatement privileges for 5 years following appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from the former position in the classified service.

NOTE: This provision provides that a person who is appointed in an unclassified position by an appointing authority other than those listed in s. 230.33 (1), stats., when both the classified and unclassified positions are within the appointing authority's department, shall be granted a leave of absence without pay for the duration of the appointment and for 3 months thereafter. The person will have restoration and reinstatement rights that are the same as a person appointed to an unclassified position by those authorities listed in s. 230.33 (1), stats.

SECTION 7. 230.33 (2) of the statutes is amended to read:

230.33 (2) A person appointed to an unclassified position by an appointing authority other than an ~~elected~~

~~officer, judicial body, legislative body or committee~~ appointing authority described under sub. (1), to a department other than the one in which the person was a classified employee may be granted a leave of absence without pay at the option of the person's former appointing authority in accordance with the leave of absence provisions in the rules of the secretary. An employee granted a leave of absence shall have the same restoration rights and reinstatement privileges as under sub. ~~(4)~~ (1m). If not granted a leave of absence, the employee shall be entitled only to the reinstatement privileges under sub. ~~(4)~~ (1m).

SECTION 8. 230.34 (1) (a) of the statutes is amended to read:

230.34 (1) (a) An employee with permanent status in class or an employee who has served with the state ~~or a county, or both,~~ as an assistant district attorney for a continuous period of 12 months or more may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

NOTE: This provision removes references to employees who have served with the state or county or both, as an assistant district attorney for a continuous period of 12 months. All assistant district attorneys are state, rather than county, employees, effective January 1, 1990.

SECTION 9. 230.34 (1) (ar) of the statutes is amended to read:

230.34 (1) (ar) Paragraphs (a) and (am) apply to all employees with permanent status in class in the classified service and all employees who have served with the state ~~or a county, or both,~~ as an assistant district attorney for a continuous period of 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective bargaining unit for which a representative is recognized or certified, or for employees specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a representative is certified, if a collective bargaining agreement is in effect covering employees in the collective bargaining unit, the determination of just cause and all aspects of the appeal procedure shall be governed by the provisions of the collective bargaining agreement.

NOTE: This section deletes the reference to counties in this provision to be consistent with the change made by SECTION 8.

SECTION 10. 230.40 (2) of the statutes is amended to read:

230.40 (2) If a person in the classified service declares an intention to run for partisan political office the person shall be ~~given~~ placed on a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office.

NOTE: This provision removes a perceived ambiguity in whether a leave of absence is discretionary if a person in the classified service declares an intention to run for partisan political office. It provides that a person shall be placed on a leave of absence rather than "given" a leave of absence. This clarifies that the provision is not discretionary. The person

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must be placed on a leave of absence regardless of the wishes of the person or agency.

SECTION 11. 230.44 (1) (c) of the statutes is amended to read:

230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employe has permanent status in class, or an employe has served with the state or a county, or both,

as an assistant district attorney for a continuous period of 12 months or more, the employe may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission, if the appeal alleges that the decision was not based on just cause.

NOTE: This section deletes the reference to counties to be consistent with the change made by SECTION 8.
