



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3389/1
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2015 ASSEMBLY BILL 373

October 7, 2015 - Introduced by Representatives STEINEKE, ROHRKASTE, ALLEN, AUGUST, BORN, BRANDTJEN, R. BROOKS, CRAIG, CZAJA, EDMING, GANNON, HUTTON, JAGLER, JARCHOW, KATSMA, KLEEFISCH, KNODL, KNUDSON, KOOYENGA, KREMER, KUGLITSCH, LOUDENBECK, MURPHY, MURTHA, NYGREN, J. OTT, SANFELIPPO, SKOWRONSKI, THIESFELDT, TITTL, VORPAGEL and WEATHERSTON, cosponsored by Senators ROTH, WANGGAARD, DARLING, S. FITZGERALD, KAPENGA, LASEE, LAZICH, LEMAHIEU, NASS, STROEBEL and VUKMIR. Referred to Committee on State Affairs and Government Operations.

1 **AN ACT** *to repeal* 230.16 (7m) (c), 230.16 (9), 230.19 (2), 230.19 (3), 230.25 (1g),
2 230.25 (1m), 230.28 (1) (b), 230.28 (6), 230.31 (2) and 230.40 (3); *to renumber*
3 230.19 (1); *to renumber and amend* 230.01 (2), 230.16 (7), 230.34 (1) (a) and
4 230.43 (1) (a); *to amend* 62.13 (4) (d), 63.08 (1) (f) 1., 63.08 (1) (f) 2., 63.08 (1)
5 (f) 3., 63.37, 63.39 (2m), 66.0509 (1), 230.04 (14), 230.05 (7), 230.08 (2) (c), 230.12
6 (1) (h), 230.13 (1) (a), 230.13 (3) (b), 230.15 (1), 230.15 (1m) (c) 1., 230.16 (title),
7 230.16 (1) (a), 230.16 (2), 230.16 (3), 230.16 (4), 230.16 (5), 230.16 (6), 230.16
8 (7m) (b) 4., 230.16 (10), 230.16 (11), 230.17 (1), 230.17 (2), 230.18, 230.21 (1),
9 230.21 (2), 230.21 (3), 230.213, 230.24 (1), 230.24 (2), 230.25 (1), 230.25 (1n) (a)
10 (intro.), 230.25 (2) (a), 230.25 (2) (b), 230.25 (3) (a), 230.26 (2), 230.26 (4), 230.28
11 (1) (a), 230.28 (1) (am), 230.28 (1) (c), 230.31 (1) (intro.), 230.34 (1) (am), 230.34
12 (2) (a), 230.34 (2) (b), 230.35 (3) (d), 230.37 (1), 230.43 (1) (title), 230.43 (1) (b),
13 230.43 (1) (c), 230.43 (1) (d), 230.43 (1) (e), 230.43 (5), 230.44 (1) (c), 230.44 (1)
14 (e) and 321.65 (3) (g); *to create* 20.865 (1) (dm), 20.928 (1f), 230.01 (2) (bm),

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1 230.01 (2) (bp), 230.04 (13m), 230.04 (19), 230.06 (1) (m), 230.06 (4), 230.13 (3)
2 (c), 230.15 (6), 230.15 (7), 230.16 (1) (ap), 230.25 (2) (am), 230.31 (3), 230.34 (1)
3 (a) 1. to 9. and 230.445 of the statutes; and **to affect** 2015 Wisconsin Act 55,
4 section 9101 (5n) (a) and 2015 Wisconsin Act 55, section 9101 (5n) (b); **relating**
5 **to:** the state civil service and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the state civil service (civil service). The civil service includes all positions and offices of trust or employment in the service of the state, except positions and offices in the University of Wisconsin System and the Wisconsin National Guard. The civil service includes both the classified and unclassified service. The 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. This 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. This bill requires applicants for positions in the classified 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 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 classified position in the civil service. 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, 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 receive preference points. Under current law, 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

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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 procedures designed 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.

Probation, reinstatement, restoration, and layoffs.

1. This bill changes the standard probationary period for all original and promotional appointments to permanent and seasonal positions in the classified service from six months to two years with a potential waiver after one year. The bill also changes the probationary period for employees in supervisory or management positions from one year with a potential waiver after six months to two years with a potential waiver after one year.

2. This bill limits reinstatement privileges to permanent employees in the classified service who are on layoff status and reduces the eligibility period for reinstatement privileges to three years following the date of the layoff. Under current law, permanent classified service employees who leave the classified service without any delinquency or misconduct have reinstatement privileges for a five-year period from the date the employee leaves the classified service. The bill eliminates reinstatement privileges for permanent classified service employees who leave the classified service without any delinquency or misconduct for reasons other than layoff. This bill also eliminates reinstatement privileges for an employee who leaves the classified service to fill an elective position. Under the bill, the changes to reinstatement privileges do not apply to classified employees who leave the classified service before the effective date of the bill.

3. This bill eliminates restoration rights for permanent employees in the classified service who are laid off on or after the effective date of the bill. Under current law, a permanent employee in the classified service who is on layoff status has restoration rights for the three-year period following the layoff.

4. This bill requires appointing authorities to determine layoff status primarily based on job performance, after which an appointing authority may consider disciplinary records, seniority, and ability. Under current law, the order of layoff may be determined by seniority, performance, any combination of seniority and performance, or by other factors.

Just cause and discipline.

1. The bill requires the administrator of DPM to establish standards for progressive discipline plans that are prepared by agencies and applied to all employees in the classified service. The bill specifically requires that the standards address progressive discipline for both personal conduct and work performance that is inadequate, unsuitable, or inferior. The bill also requires that each appointing authority prepare a progressive discipline plan for the appointing authority's agency that complies with the administrator's standards.

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2. Under current law, an employer may remove, suspend without pay, discharge, reduce the base pay of, or demote (take an adverse employment action against) a permanent classified employee and certain assistant district attorneys and assistant state public defenders only for just cause. This bill expressly states that an employer has just cause to take an adverse employment action against an employee for work performance or personal conduct that an appointing authority determines to be inadequate, unsuitable, or inferior, but only after the appointing authority imposes progressive discipline that complies with standards established by the administrator of DPM. This bill also expressly states that an employer has just cause to take an adverse employment action against an employee without imposing progressive discipline for specific conduct. Such conduct includes theft of agency 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 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 deadlines 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 an 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 state 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

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discretionary merit awards to classified employees. The administrator then distributes 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 it eliminates the authority of the director to limit competition for promotional opportunities in certain circumstances.

4. This bill requires DOA to consult with each state 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, by January 1, 2017, 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.

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

- 1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

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SECTION 1

2015-16 2016-17

1

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 2.** 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 3.** 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 4.** 62.13 (4) (d) of the statutes is amended to read:

23 62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and
24 under 55 years of age, with proper limitations as to health and, subject to ss. 111.321,

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1 111.322, and 111.335, arrest and conviction record. The examination, including
2 minimum training and experience requirements, shall be job-related in compliance
3 with appropriate validation standards and shall be subject to the approval of the
4 board and may include tests of manual skill and physical strength. All relevant
5 experience, whether paid or unpaid, shall satisfy experience requirements. The
6 board shall control examinations and may designate and change examiners, who
7 may or may not be otherwise in the official service of the city, and whose
8 compensation shall be fixed by the board and paid by the city. Veterans and their
9 spouses shall be given preference points in accordance with s. ~~230.16 (7)~~ 63.08 (1)
10 (fm).

11 **SECTION 5.** 63.08 (1) (f) 1. of the statutes is amended to read:

12 63.08 (1) (f) 1. The commission may not impose any restriction as to age on any
13 veteran who is applying or eligible for a position under this section. The commission
14 shall give preference points to veterans and their spouses under s. ~~230.16 (7)~~ par.
15 (fm), except as provided under subd. 2.

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

17 63.08 (1) (f) 2. ~~Notwithstanding s. 230.16 (7), persons~~ Persons shall be certified
18 from the eligible list under s. 63.05 (1) (b) without adding any preference points to
19 any person's grade.

20 **SECTION 7.** 63.08 (1) (f) 3. of the statutes is amended to read:

21 63.08 (1) (f) 3. After the certification under subd. 2., any veteran or veteran's
22 spouse whose grade, plus the points to which the veteran or spouse is entitled under
23 s. ~~230.16 (7)~~ par. (fm), is equal to or higher than the lowest grade on the list made
24 under subd. 2. shall be added to the certification list under s. 63.05 (1) (b). The

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1 number of persons added to a certification list under this subdivision may not exceed
2 the number of persons initially certified under subd. 2.

3 **SECTION 8.** 63.37 of the statutes is amended to read:

4 **63.37 Board to keep a register of eligibles.** From the returns or reports of
5 the examiners, or from the examinations made by the board, the board shall prepare
6 and keep a register for each grade or class of position in the service of such city, of
7 the persons whose general average standing upon examinations for such grade or
8 class is not less than the minimum fixed by the rules of such board, and who are
9 otherwise eligible, and such persons shall take rank upon the register as candidates
10 in the order of their relative excellence as determined by examination without
11 reference to priority of time of examination. The board shall impose no restrictions
12 as to age in case of veterans, and veterans and their spouses shall be given preference
13 points in accordance with s. ~~230.16 (7)~~ 63.08 (1) (fm).

14 **SECTION 9.** 63.39 (2m) of the statutes is amended to read:

15 **63.39 (2m)** Notwithstanding s. ~~230.16 (7)~~ 63.08 (1) (fm), the board shall certify
16 persons from the list of eligibles without adding preference points to their grades.
17 After the certification under sub. (1) or (2), the board shall add to the certification list
18 any veteran or veteran's spouse whose grade, plus the points to which the veteran
19 or spouse is entitled under s. ~~230.16 (7)~~ 63.08 (1) (fm), is equal to or higher than the
20 lowest grade on the list of eligibles.

21 **SECTION 10.** 66.0509 (1) of the statutes is amended to read:

22 **66.0509 (1)** Any city or village may proceed under s. 61.34 (1), 62.11 (5) or
23 66.0101 to establish a civil service system of selection, tenure and status, and the
24 system may be made applicable to all municipal personnel except the chief executive
25 and members of the governing body, members of boards and commissions including

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

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

12 230.01 (2) (a) It is the policy of the state and the responsibility of the director
13 and the administrator to maintain a system of personnel management which fills
14 positions in the classified service through methods which apply the merit principle,
15 with adequate civil service safeguards.

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

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

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

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

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

6 **SECTION 12.** 230.01 (2) (bm) of the statutes is created to read:

7 230.01 (2) (bm) It is the policy of this state to recruit, select, and promote
8 employees based on their relative skills, abilities, competencies, and knowledge,
9 including using open processes to consider qualified applicants for initial
10 employment.

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

12 230.01 (2) (bp) It is the policy of this state to retain employees on the basis of
13 the adequacy of their performance, to correct inadequate performance when possible
14 and appropriate, and to separate from state service employees whose performance
15 and personal conduct is inadequate, unsuitable, or inferior.

16 **SECTION 14.** 230.04 (13m) of the statutes is created to read:

17 230.04 (13m) The administrator shall establish standards for progressive
18 discipline plans to be prepared by all agencies and applied to all employees in the
19 classified service. The standards shall address progressive discipline for personal
20 conduct and work performance that is inadequate, unsuitable, or inferior.

21 **SECTION 15.** 230.04 (14) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is amended to read:

23 230.04 (14) The Except as provided in s. 230.445, the administrator shall
24 establish, by rule, the scope and minimum requirements of a state employee
25 grievance procedure relating to conditions of employment.

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1 **SECTION 16.** 230.04 (19) of the statutes is created to read:

2 230.04 **(19)** The administrator shall develop and implement a discretionary
3 merit award program to distribute money under s. 20.928 (1f) to agencies for the
4 purpose of providing lump sum monetary awards to classified employees whose job
5 performance has exceeded agency expectations.

6 **SECTION 17.** 230.05 (7) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is amended to read:

8 230.05 **(7)** The director shall use techniques and procedures designed to certify
9 eligible applicants to any vacant permanent position within 45 30 days after the
10 filing of an appropriate request by an appointing authority.

11 **SECTION 18.** 230.06 (1) (m) of the statutes is created to read:

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

14 **SECTION 19.** 230.06 (4) of the statutes is created to read:

15 230.06 **(4)** An appointing authority shall maintain permanently an employee's
16 disciplinary records in the employee's personnel file. Unless otherwise ordered by
17 a court or, during the grievance process under s. 230.445, by the appointing
18 authority, administrator, or commission, or unless otherwise agreed to in a
19 settlement agreement, disciplinary records may not be removed from an employee's
20 personnel file.

21 **SECTION 20.** 230.08 (2) (c) of the statutes is amended to read:

22 230.08 **(2)** (c) The director, associate director, and state historian of the
23 historical society; and, with the approval of the board of curators and the
24 administrator, such number of specialists as are required by the society for specific
25 research, writing, collecting, or editing projects which for a limited period of time not

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1 to exceed 2 years, renewable at the discretion of the board of curators and the
2 administrator for an additional 2-year period, require persons with particular
3 training or experience in a specialized phase or field of history, historical research,
4 writing, collecting, or editing, and any persons whose entire salary is paid from funds
5 reappropriated to the society by s. 20.245 (1) (r) where a competitive examination
6 process is impractical.

7 **SECTION 21.** 230.12 (1) (h) of the statutes is amended to read:

8 230.12 (1) (h) *Other pay, benefits, and working conditions.* The compensation
9 plan may include other provisions relating to pay, benefits, and working conditions
10 that shall supersede the provisions of the civil service and other applicable statutes
11 and rules promulgated by the director and the administrator.

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

13 230.13 (1) (a) ~~Examination scores and ranks and other evaluations~~
14 Evaluations of applicants, including any examination scores and rankings.

15 **SECTION 23.** 230.13 (3) (b) of the statutes is amended to read:

16 230.13 (3) (b) The director and the administrator may provide any agency with
17 personnel information relating to the hiring and recruitment process, including
18 specifically the examination scores and ranks and other evaluations of applicants.

19 **SECTION 24.** 230.13 (3) (c) of the statutes is created to read:

20 230.13 (3) (c) The administrator and the director shall provide an appointing
21 authority with access to the personnel files of any individual who currently holds a
22 position whom the appointing authority intends to make an offer of employment.

23 **SECTION 25.** 230.15 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
24 is amended to read:

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

7 **SECTION 26.** 230.15 (1m) (c) 1. of the statutes, as affected by 2015 Wisconsin
8 Act 55, is amended to read:

9 230.15 (1m) (c) 1. Whenever a position is included in the classified service
10 under par. (a), the director may waive the requirement for competitive ~~examination~~
11 procedures under sub. (1) with respect to the position and certify the incumbent
12 employee for appointment to the position in accordance with subd. 2.

13 **SECTION 27.** 230.15 (6) of the statutes is created to read:

14 230.15 (6) Annually, each appointing authority shall submit a report to the
15 director and the administrator indicating the number of days it took to make an offer
16 of employment for a vacant position after receiving from the director a list of names
17 of individuals who are certified for appointment to the position.

18 **SECTION 28.** 230.15 (7) of the statutes is created to read:

19 230.15 (7) An appointing authority may not make an offer of employment to
20 any individual who currently holds a position unless the appointing authority has
21 reviewed the personnel file of the individual.

22 **SECTION 29.** 230.16 (title) of the statutes is amended to read:

23 **230.16 (title) Applications and examinations resumes.**

24 **SECTION 30.** 230.16 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
25 is amended to read:

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

5 **SECTION 31.** 230.16 (1) (ap) of the statutes is created to read:

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

14 2. If a particular conviction record disqualifies applicants for a certain position
15 in the state civil service, the administrator may request a person applying for the
16 position to supply information regarding the conviction record of the applicant, or
17 otherwise inquire into or consider the conviction record of the applicant, to determine
18 whether the applicant's conviction record disqualifies him or her for the position
19 before the applicant is certified for the position.

20 **SECTION 32.** 230.16 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
21 is amended to read:

22 230.16 (2) Competitive ~~examinations~~ procedures in the selection process shall
23 be free and open to all applicants who have fulfilled the preliminary requirements
24 stated in the ~~examination~~ announcement for the procedure. To assure that all
25 applicants have a fair opportunity to compete, ~~examinations~~ competitive procedures

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1 shall be held ~~at such times and places as, in the judgment of the director,~~ scheduled
2 in a manner that most nearly meet the convenience of applicants and needs of the
3 service, as determined by the director.

4 **SECTION 33.** 230.16 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
5 is amended to read:

6 230.16 (3) The director may appoint boards of ~~examiners~~ evaluators of at least
7 2 persons, one of which is selected by the bureau and one of which is a representative
8 of the appointing authority, for the purpose of conducting oral ~~examinations~~
9 evaluations as a part of the ~~examination~~ hiring procedure for certain positions. All
10 ~~board members~~ evaluators shall be well-qualified and impartial. All questions
11 asked and answers made in any ~~examination of applicants~~ oral evaluation shall be
12 recorded and made a part of the records of the ~~applicants~~ applicant's records.

13 **SECTION 34.** 230.16 (4) of the statutes is amended to read:

14 230.16 (4) All ~~examinations~~ selection criteria, including minimum training
15 and experience requirements, for positions in the classified service shall be
16 job-related in compliance with appropriate validation standards and shall be subject
17 to the approval of the administrator. All relevant experience, whether paid or
18 unpaid, shall satisfy experience requirements.

19 **SECTION 35.** 230.16 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
20 is amended to read:

21 230.16 (5) In the interest of sound personnel management, consideration of
22 applicants, and service to agencies, the director may set a standard for proceeding
23 to subsequent steps in an ~~examination~~ the selection process, provided that all
24 applicants are fairly treated and due notice has been given. ~~The standard may be~~
25 ~~at or above the passing point set by the director for any portion of the examination.~~

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1 The director shall utilize appropriate scientific techniques and procedures in
2 administering the selection process, in rating the results of examinations any
3 evaluations used in the selection process, and in determining the relative ratings of
4 the competitors.

5 **SECTION 36.** 230.16 (6) of the statutes, as affected by 2015 Wisconsin Act 55,
6 is amended to read:

7 230.16 (6) If any applicant is unable to complete ~~the examination~~ an evaluation
8 that is used in the selection process in the form presented to the applicant due to a
9 disability, the bureau shall provide ~~a reader, an appropriate place to take the~~
10 ~~examination or other similar prerequisites~~ necessary accommodations to ensure
11 equality of opportunity in the ~~examination~~ selection process.

12 **SECTION 37.** 230.16 (7) of the statutes is renumbered 63.08 (1) (fm), and 63.08
13 (1) (fm) 1. (intro.) and 2., as renumbered, are amended to read:

14 63.08 (1) (fm) 1. (intro.) A preference shall be given to those veterans and to
15 those spouses of veterans specified in subds. 1. ~~to 6.~~ a. to f. who gain eligibility on any
16 competitive employment register and who do not currently hold a permanent
17 appointment or have mandatory restoration rights to a permanent appointment to
18 any position. A preference means the following:

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

23 **SECTION 38.** 230.16 (7m) (b) 4. of the statutes is amended to read:

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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 39.** 230.16 (7m) (c) of the statutes, as affected by 2015 Wisconsin Act
5 55, is repealed.

6 **SECTION 40.** 230.16 (9) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is repealed.

8 **SECTION 41.** 230.16 (10) of the statutes is amended to read:

9 230.16 (10) Every reasonable precaution shall be taken to prevent any
10 unauthorized person from gaining any knowledge of the nature or content of the
11 examinations competitive procedures in the selection process that is not available to
12 every applicant.

13 **SECTION 42.** 230.16 (11) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is amended to read:

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

18 **SECTION 43.** 230.17 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

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

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1 **SECTION 44.** 230.17 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

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

16 **SECTION 45.** 230.18 of the statutes, as affected by 2015 Wisconsin Act 55, is
17 amended to read:

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

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

4 **SECTION 46.** 230.19 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
5 is renumbered 230.19.

6 **SECTION 47.** 230.19 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is repealed.

8 **SECTION 48.** 230.19 (3) of the statutes is repealed.

9 **SECTION 49.** 230.21 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is amended to read:

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

14 **SECTION 50.** 230.21 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

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

21 **SECTION 51.** 230.21 (3) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is amended to read:

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

ASSEMBLY BILL 373**SECTION 51**

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

4 **SECTION 52.** 230.213 of the statutes, as affected by 2015 Wisconsin Act 55, is
5 amended to read:

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

16 **SECTION 53.** 230.24 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
17 is amended to read:

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

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

6 **SECTION 54.** 230.24 (2) of the statutes is amended to read:

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

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

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

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

3 **SECTION 56.** 230.25 (1g) of the statutes, as affected by 2015 Wisconsin Act 55,
4 is repealed.

5 **SECTION 57.** 230.25 (1m) of the statutes is repealed.

6 **SECTION 58.** 230.25 (1n) (a) (intro.) of the statutes, as affected by 2015
7 Wisconsin Act 55, is amended to read:

8 230.25 **(1n)** (a) (intro.) After certifying names under ~~subs. sub. (1), (1g) and~~
9 ~~(1m)~~, the director may engage in expanded certification by doing one or more of the
10 following:

11 **SECTION 59.** 230.25 (2) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
12 is amended to read:

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

19 **SECTION 60.** 230.25 (2) (am) of the statutes is created to read:

20 230.25 **(2)** (am) 1. If the certification list for a position includes a veteran and
21 the appointing authority extends invitations to interview candidates for the position,
22 the appointing authority shall extend an invitation to interview to the veteran.

23 2. If a veteran is included on a certification list and if the minimum
24 qualifications and the skills, abilities, competencies, and knowledge of the veteran

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1 and any other applicant being interviewed for the position are equal, the appointing
2 authority shall give a preference to the veteran for the position.

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

7 a. A spouse of a disabled veteran whose disability is at least 70 percent.

8 b. An unremarried spouse of a veteran who was killed in action.

9 c. An unremarried spouse of a veteran who died of a service-connected
10 disability.

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

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

20 230.25 (2) (b) Unless otherwise provided in this subchapter or the rules of the
21 director, appointments shall be made by appointing authorities to all positions in the
22 classified service from among those certified to them in accordance with this section.
23 Appointments shall be made within ~~60~~ 30 days after the date of certification unless
24 an exception is made by the director. If an appointing authority does not make an
25 appointment within ~~60~~ 30 days after certification, he or she shall immediately report

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1 in writing to the director the reasons therefor. If the director determines that the
2 failure to make an appointment is not justified under the merit system, the director
3 shall issue an order directing that an appointment be made.

4 **SECTION 62.** 230.25 (3) (a) of the statutes is amended to read:

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

11 **SECTION 63.** 230.26 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
12 is amended to read:

13 230.26 (2) If there are urgent reasons for filling a vacancy in any position in
14 the classified service and the director is unable to certify to the appointing authority,
15 upon requisition by the latter, a list of persons eligible for appointment from an
16 appropriate employment register, the appointing authority may nominate a person
17 to the director ~~for noncompetitive examination~~. If the nominee is certified by the
18 director as qualified, the nominee may be appointed provisionally to fill the vacancy
19 until an appointment can be made from a register established after announcement
20 of competition for the position, except that no provisional appointment may be
21 continued for more than 45 working days after the date of certification from the
22 register. Successive appointments may not be made under this subsection. This
23 subsection does not apply to a person appointed to a vacant position in the classified
24 service under s. 230.275.

25 **SECTION 64.** 230.26 (4) of the statutes is amended to read:

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1 230.26 (4) Fringe benefits specifically authorized by statutes, with the
2 exception of deferred compensation plan participation under subch. VII of ch. 40,
3 worker's compensation, unemployment insurance, group insurance, retirement, and
4 social security coverage, shall be denied employees hired under this section. Such
5 employees may not be considered permanent employees and do not qualify for
6 tenure, vacation, paid holidays, sick leave, performance awards, or the right to
7 compete in promotional ~~examinations~~ processes.

8 **SECTION 65.** 230.28 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
9 is amended to read:

10 230.28 (1) (a) All original and all promotional appointments to permanent,
11 sessional, and seasonal positions, with the exception of those positions designated
12 as supervisor or management under s. 111.81, in the classified service shall be for a
13 probationary period of ~~6 months, but the director at the request of the appointing~~
14 ~~authority and in accordance with the rules related thereto may extend any such~~
15 ~~period for a maximum of 3 additional months~~ 2 years, unless the probationary period
16 is waived after one year under par. (c). Dismissal may be made at any time during
17 such periods. Upon such dismissal, the appointing authority shall report to the
18 director and to the employee removed, the dismissal and the reason therefor. The
19 director may remove an employee during the employee's probationary period if the
20 director finds, after giving notice and an opportunity to be heard, that such employee
21 was appointed as a result of fraud or error.

22 **SECTION 66.** 230.28 (1) (am) of the statutes is amended to read:

23 230.28 (1) (am) All probationary periods for employees in supervisory or
24 management positions are ~~one year~~ 2 years unless waived after ~~6 months~~ one year
25 under par. (c). The waiver under par. (c) may be exercised for an employee in a

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1 supervisory position only if the employee has successfully completed a supervisory
2 development program under s. 230.046 (2). However, persons who transfer or are
3 reinstated to supervisory or management positions consistent with conditions under
4 sub. (4) and who had previously obtained permanent status in class in a supervisory
5 or management position prior to the transfer or reinstatement shall serve a
6 probationary period in accordance with sub. (4).

7 **SECTION 67.** 230.28 (1) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
8 is repealed.

9 **SECTION 68.** 230.28 (1) (c) of the statutes, as affected by 2015 Wisconsin Act 55,
10 is amended to read:

11 230.28 (1) (c) Upon request by the appointing authority, the director may waive
12 any portion of the lengthened a probationary period but in no case before a ~~6-month~~
13 one-year probationary period has been served.

14 **SECTION 69.** 230.28 (6) of the statutes is repealed.

15 **SECTION 70.** 230.31 (1) (intro.) of the statutes is amended to read:

16 230.31 (1) (intro.) Any person who has held a position and obtained permanent
17 status in a class under the civil service law and rules and who has separated from
18 the service before the effective date of this subsection ... [LRB inserts date], without
19 any delinquency or misconduct on his or her part but owing to reasons of economy
20 or otherwise shall be granted the following considerations:

21 **SECTION 71.** 230.31 (2) of the statutes, as affected by 2015 Wisconsin Act 55,
22 is repealed.

23 **SECTION 72.** 230.31 (3) of the statutes is created to read:

24 230.31 (3) Any person who has held a position and obtained permanent status
25 in class under the civil service law and rules and who is laid off on or after the

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1 effective date of this subsection [LRB inserts date], is eligible for reinstatement
2 in a position having a comparable or lower pay rate or range for which such person
3 is qualified for a 3-year period from the date of the layoff.

4 **SECTION 73.** 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (a) (intro.)
5 and amended to read:

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

17 **SECTION 74.** 230.34 (1) (a) 1. to 9. of the statutes are created to read:

18 230.34 (1) (a) 1. While on duty, harassing a person.

19 2. While on duty, intentionally inflicting physical harm on another person.

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

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

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1 5. Falsifying records of the agency.

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

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

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

13 9. A serious violation of the code of ethics established by the director under s.
14 19.45 (11) (a), as determined by the director.

15 **SECTION 75.** 230.34 (1) (am) of the statutes is amended to read:

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

25 **SECTION 76.** 230.34 (2) (a) of the statutes is amended to read:

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1 230.34 (2) (a) ~~The~~ An appointing authority shall determine the order of layoff
2 of such employees ~~may be determined by seniority or~~ primarily based on job
3 ~~performance or a combination thereof or by other factors, and thereafter, in~~
4 accordance with the rules of the director, on disciplinary records, seniority, and
5 ability.

6 **SECTION 77.** 230.34 (2) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
7 is amended to read:

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

13 **SECTION 78.** 230.35 (3) (d) of the statutes, as affected by 2015 Wisconsin Act 55,
14 is amended to read:

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

19 **SECTION 79.** 230.37 (1) of the statutes, as affected by 2015 Wisconsin Act 55,
20 is amended to read:

21 230.37 (1) In cooperation with appointing authorities the administrator shall
22 establish an employee performance evaluation program to provide a continuing
23 record of employee development and, when applicable, to serve as a basis for
24 pertinent personnel actions. Under the employee performance evaluation program
25 established under this subsection, the administrator shall require each appointing

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1 authority to conduct an annual performance evaluation of each employee appointed
2 by the appointing authority. Similar evaluations shall be conducted during the
3 probationary period but may not infringe upon the authority of the appointing
4 authority to retain or dismiss employees during the probationary period.

5 **SECTION 80.** 230.40 (3) of the statutes is repealed.

6 **SECTION 81.** 230.43 (1) (title) of the statutes is amended to read:

7 230.43 (1) (title) ~~OBSTRUCTION~~ HIRING PROCESS; OBSTRUCTION OR FALSIFICATIONS
8 ~~OF EXAMINATIONS.~~

9 **SECTION 82.** 230.43 (1) (a) of the statutes is renumbered 230.43 (1) (intro.) and
10 amended to read:

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

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

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

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

22 **SECTION 84.** 230.43 (1) (c) of the statutes is amended to read:

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

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

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

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

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

11 **SECTION 87.** 230.43 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
12 is amended to read:

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

22 **SECTION 88.** 230.44 (1) (c) of the statutes is amended to read:

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

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

5 **SECTION 89.** 230.44 (1) (e) of the statutes is amended to read:

6 230.44 (1) (e) *Discretionary performance awards.* This subsection does not
7 apply to decisions of an appointing authority relating to discretionary performance
8 awards under s. 230.12 (5) or under the discretionary merit award program
9 established under s. 230.04 (19), including the evaluation methodology and results
10 used to determine the award or the amount awarded.

11 **SECTION 90.** 230.445 of the statutes is created to read:

12 **230.445 Grievance process for demotion, suspension, discharge,**
13 **layoff, or reduction in base pay. (1)** In this section:

14 (a) "Adverse employment decision" means a decision to demote, layoff, suspend
15 without pay, discharge, or reduce the base pay of an employee.

16 (b) "Employee" means an employee who has obtained permanent status in class
17 or an employee who has served with the state as an assistant district attorney or an
18 assistant state public defender for a continuous period of 12 months or more.

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

24 (3) (a) 1. To commence the grievance process for an adverse employment action,
25 an employee shall file a complaint with the employee's appointing authority

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1 challenging the adverse employment decision against the employee no later than 14
2 days after the employee becomes aware of, or should have become aware of, the
3 decision that is the subject of the complaint.

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

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

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

22 (c) 1. An employee or an appointing authority may appeal a decision issued by
23 the administrator under par. (b) by filing an appeal with the commission. The
24 employee or appointing authority may file an appeal with the commission no later
25 than 14 days after receiving the administrator's decision. Within 10 days of receiving

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1 an appeal, the commission shall determine whether all procedural requirements
2 were completed properly and in a timely manner. If a procedural requirement was
3 not met, the commission shall dismiss the appeal. If all of the procedural
4 requirements were met, the commission shall hear the appeal under s. 230.44 (4),
5 except that the commission shall issue a decision on the appeal no later than 120 days
6 after the date the appeal is filed with the commission.

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

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

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

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

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

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

21 **SECTION 91.** 321.65 (3) (g) of the statutes is amended to read:

22 321.65 (3) (g) *Veterans preferences.* The right of a person to reemployment
23 under this subsection does not entitle the person to retention, preference, or
24 displacement rights over any person who has a superior claim under s. 45.03 (4),

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1 62.13 (4) (d), 63.08 (1) (f) or (fm), 63.37, 63.39 (2m), 66.0509 (1), 230.15 (2m), 230.16
2 ~~(7) or (7m)~~, 230.21 (1m), 230.25, or 230.275.

3 **SECTION 92.** 2015 Wisconsin Act 55, section 9101 (5n) (a) is amended to read:

4 [2015 Wisconsin Act 55] Section 9101 (5n) (a) In this subsection, "agency"
5 means ~~the board of commissioners of public lands; the educational communications~~
6 ~~board; the department of financial institutions; the government accountability~~
7 ~~board; the higher educational aids board; the state historical society; the public~~
8 ~~service commission; the department of safety and professional services; the state fair~~
9 ~~park board; the department of tourism~~ any agency within the executive branch of
10 state government, other than the Board of Regents of the University of Wisconsin
11 System.

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

13 [2015 Wisconsin Act 55] Section 9101 (5n) (b) The By January 1, 2017, the
14 department of administration shall consult with each agency and develop a plan for
15 assuming responsibility for services relating to human resources;. By January 1,
16 2017, the department of administration shall also consult with the board of
17 commissioners of public lands, the educational communications board, the
18 department of financial institutions, the government accountability board, the
19 higher educational aids board, the state historical society, the public service
20 commission, the department of safety and professional services, the state fair park
21 board, and the department of tourism and develop a plan for assuming responsibility
22 for services related to payroll, finance, budgeting, procurement, and information
23 technology for any agency these agencies. The department of administration shall
24 include in the each plan which services would be provided to each agency, which

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1 positions would be deleted or transferred, and the number and type of positions and
2 associated funding that would be provided to the department of administration.

SECTION 94. Nonstatutory provisions.

3
4 (1) STUDY OF CERTAIN ASPECTS OF THE STATE CIVIL SERVICE SYSTEM. (a) The
5 administrator of the division of personnel management in the department of
6 administration and the director of the bureau of merit recruitment and selection in
7 the department of administration shall jointly review all of the following:

8 1. The classifications for all positions in the classified service of the state
9 service. In reviewing the classifications, they shall consider the feasibility of
10 reducing the number of classifications, as well as establishing a new system of
11 classification, in order to increase administrative efficiency and better meet the
12 needs of the state civil service.

13 2. The Wisconsin Human Resources Handbook.

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

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

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

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

SECTION 95. Initial applicability.

22
23 (1) INFORMATION ABOUT CONVICTION RECORD. The creation of section 230.16 (1)
24 (ap) of the statutes first applies to an application for employment in the civil service
25 submitted on the effective date of this subsection.

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1 (2) **HIRING PREFERENCE FOR VETERANS AND SPOUSES OF VETERANS.** The creation of
2 section 230.25 (2) (am) of the statutes first applies to a certification list for a position
3 that is posted on the effective date of this subsection.

4 (3) **MANDATORY REVIEW OF PERSONNEL FILE.** The creation of section 230.15 (7) of
5 the statutes first applies to an offer of employment made on the effective date of this
6 subsection.

7 (4) **PROBATIONARY PERIODS.** The treatment of section 230.28 (1) (a), (am), (b), and
8 (c) of the statutes first applies to a probationary period that begins on the effective
9 date of this subsection.

10 (5) **STANDARDS FOR ADVERSE EMPLOYMENT ACTIONS AGAINST EMPLOYEES.** The
11 treatment of section 230.34 (1) (a) and (am) of the statutes and the creation of section
12 230.34 (1) (a) 1. to 9. of the statutes first apply to employee discipline for conduct that
13 occurs on the effective date of this subsection.

14 (6) **GRIEVANCE PROCESS FOR ADVERSE EMPLOYMENT ACTIONS AGAINST EMPLOYEES.**
15 The treatment of section 230.44 (1) (c) of the statutes and the creation of section
16 230.445 of the statutes first apply to an adverse employment action, as defined in
17 section 230.445 (1) (a) of the statutes, as created by this act, taken against an
18 employee on the effective date of this subsection.

19 (7) **REINSTATEMENT PRIVILEGES; SEPARATION FROM THE CLASSIFIED SERVICE TO FILL**
20 **AN ELECTIVE POSITION.** The treatment of section 230.40 (3) of the statutes first applies
21 to a person who separates from the classified service on the effective date of this
22 subsection.

23 **SECTION 96. Effective dates.** This act takes effect on July 1, 2016, except as
24 follows:

