



2023 ASSEMBLY BILL 1116

February 23, 2024 - Introduced by Representatives MAXEY, MICHALSKI, BEHNKE, BODDEN, DITTRICH, GOEBEN, GUNDRUM, GUSTAFSON, KITCHENS, MAGNAFICI, MURPHY, O'CONNOR, RETTINGER, ROZAR, SCHMIDT, SCHUTT and PENTERMAN, cosponsored by Senators STROEBEL and QUINN. Referred to Committee on Campaigns and Elections.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to create** 16.55 of the statutes; **relating to:** payments to individuals
2 holding over in executive positions.

Analysis by the Legislative Reference Bureau

Under current law, vacancies in public office may occur in a number of ways, including when the incumbent resigns, dies, or is removed from office, or, in the case of elected office, when the incumbent's term expires. However, as the Wisconsin Supreme Court held in *State ex rel. Kaul v. Prehn*, 2022 WI 50, expiration of an incumbent's term of office does not create a vacancy if the office is filled by appointment for a fixed term. Absent a vacancy or removal for cause, these incumbents may remain in office until their successors are appointed and qualified. Under the bill, if such an incumbent remains in the public office after the expiration of the incumbent's term, any salary or other payments the incumbent receives for duties related to the public office must be withheld beginning 90 days after the expiration of the incumbents term. The bill specifies that this provision applies only to incumbents who were appointed by a person in the executive branch.

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

3 **SECTION 1.** 16.55 of the statutes is created to read:
4 **16.55 Salary; legal holdovers in public office.** (1) In this section, "eligible
5 public office" is a public office to which all of the following apply:

ASSEMBLY BILL 1116**SECTION 1**

1 (a) The public office is for a fixed term.

2 (b) An individual is appointed to the public office by a person in the executive
3 branch, including any executive branch entity under ch. 15.

4 (c) No statutory or constitutional language prohibits a holdover period at the
5 end of the fixed term of the public office.

6 **(2)** If an individual continues to legally hold an eligible public office after the
7 expiration of the individual's fixed term, beginning with the pay period that begins
8 90 days after the expiration of the individual's fixed term in the eligible public office,
9 any salary or other payments made to the individual for duties related to the eligible
10 public office shall be withheld.

11 **SECTION 2. Initial applicability.**

12 (1) This act first applies to the pay period beginning after the effective date of
13 this subsection.

14 (END)