

**ORDER OF THE ADMINISTRATOR
OF THE DIVISION OF MERIT RECRUITMENT AND SELECTION
PROMULGATING RULES**

To repeal ER-Pers 1.02 (7)(intro.), 1.02 (14), 6.08 (2), 10.01 (1), 12.05 (1) and (2), 13.08 (1)(b), 13.08 (3), 14.01, 16.01 (1), 18.05 (2), 22.02 (1) to (3), 34.01 (1) and 34.09 (1); to renumber ER-Pers 1.02 (1) to (6), (7)(a) to (e), (8) to (13m), 1.02 (15), 6.015, 6.11, 22.11 (1) and (2), 34.01 (2) and 34.07 (3) and (4); to renumber and amend ER-Pers 12.07, 14.02 (3), 16.01 (2), 16.015, 16.03 (6) and 34.09 (2); to amend ER-Pers 1.01, 1.02 (intro.), 6.01, 6.02, 6.025, 6.027, 6.07, 6.08 (1), 6.09 (1), 7.01, 10.03, 10.04 (2), 11.01 (2), 11.02 (2), 11.04 (1)(intro.)(d), (e), and (f), 12.03, 12.04 (2), 12.05 (intro.), 13.02 (1), 13.03, 13.08 (2), 13.09, 14.02 (2), 14.03 (1), 15.03, 16.035 (3), 16.04 (2), 17.03, 17.04 (3)(intro.) and (4)(b), 22.03 (3)(c), 22.04 (intro.), 22.06, 22.08 (1)(a) 1. and 2., (1)(b) 3., (2)(intro.), (2)(a), (2)(a) 1. to 3., (2)(b) 2., (3)(a) and (3)(c), 22.10 (2), 22.13 (1), 22.14, 24.035, 24.04 (intro.), 24.04 (2)(b) 2., 24.04 (2)(e), 30.01 (3), 30.105 (2)(b), 30.99 (1), 32.04, 34.02 and 34.03; to amend ER-Pers 1.02 (2), (4), (7), (10), (14), (21), (26), (31) and (32) as renumbered; to repeal and recreate ER-Pers 13.01, 15.01, 15.02, 17.01, 27.01 to 27.04; to create ER-Pers 1.02 (1), (5), (11), (12), (13), (17), (19), (24), (26m), (27) to (30), (33) and (35), 1.03, 7.02, 12.06, 12.07, 13.015, 14.02 (3), (4) and (5), 15.08, 16.015 (2), 16.025, 16.03 (4)(title), 16.03 (6)(a) 1., and 2., (b) and (c), 22.02 (1) to (4), 22.035, 22.11 (1), 24.03 (intro.), 24.04 (2)(b) 3., 27.05 to 27.07, 34.01 (title) and 34.10, relating to personnel definitions, notice of examination results, register establishment and certification of applicants, promotion, reinstatement, restoration, demotion, layoff, code of ethics for classified employes, exceptional methods and kinds of employment, and project employment, all governed by the rules of the division of merit recruitment and selection in the department of employment relations.

Analysis by the Division of Merit Recruitment and Selection

This rule making order reflects a recodification of current rules of the administrator, division of merit recruitment and selection (DMRS), department of employment relations (DER), and also contains both major and minor changes as well as editorial and technical revisions.

The recodification primarily results from the provisions of 1983 Wisconsin Act 27 which reorganized DER, together with Section 2015 (3)(c) of that Act which transferred the authority for certain rules of the former division of personnel to either the administrator of the division of merit recruitment and selection or to the secretary of the department of employment relations. A variety of editorial revisions are included in the recodification, as well as a number of cross-references to terms defined under the rules of the secretary, DER.

These proposed revisions to the rules of the administrator, DMRS, make a number of substantive changes. Those changes considered to have major effect address the following issues: clarification of which persons may compete in promotional exams in chapters 6, 11 and 14; elimination of obsolete provisions and reiteration of administrator's authority in implementing technological changes in recruitment, test scoring and certification methods in chapters 6, 7, 11 and 12; incorporation of the layoff group concept including recognition of the recruitment option which reflects the process followed in making appointments and other modifications to the layoff process in chapter 22; and, modification of the code of ethics to conform more closely to the code of ethics for state officials and unclassified employees promulgated by the state ethics board and making it possible for classified employees to accept awards or rewards when consistent with the code of ethics purpose in chapter 24.

The remaining proposed changes are consistent with the above explanations or are nonsubstantive and technical in nature, or incorporate amendments resulting from provisions of 1987 Wisconsin Act 32.

A plain language analysis of those sections in which the revisions are considered to be substantive changes follows:

DMRS Plain Language Explanation of Substantive Rule Changes and Citation of the Statute Interpreted

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| ER-Pers 6.025 | Amended. To specify promotional examinations for which persons in layoff status are eligible to compete.
s. 230.19 (3), Stats. |
| ER-Pers 6.027 | Amended. To specify promotional examinations for which persons on temporary interchange are eligible to compete.
s. 230.19 (1), Stats. |
| ER-Pers 6.07 | Amended. To increase the administrator's options regarding how to inform applicants of the results of examinations.
s. 230.05 (1) and (5), Stats. |
| ER-Pers 6.08 (1) | Amended. To restructure rule and clarify intent. |

ER-Pers 6.08 (2) Repealed. To eliminate obsolete provisions placing restrictions on administrator not compatible with technological changes in test scoring and notification methods.
Section 2015 (3)(c) of Wisconsin Act 27 effective 7/2/83 s. 230.05 (1) and (5), Stats.

ER-Pers 6.09 (1) Amended. To specify in rule what actions the administrator will take to achieve anonymity of applicants.
s. 230.16 (4), Stats.

ER-Pers 7.01 Amended. To eliminate redundant language.

ER-Pers 7.02 Created. To make explicit the administrator's authority to use random certification for labor and service positions and to establish the number of persons who may be certified using such methods.
s. 230.21 (1), Stats.

ER-Pers 10.01 (1) Repealed. Definition placed in ER-Pers 1.02.

ER-Pers 10.03 Amended. To reflect transfer of statutory authority for most aspects of LTE to the Secretary of DER.
Section 2015 (3)(c) of Wisconsin Act 27 effective 7/2/83

ER-Pers 11.01 (2) Amended. To authorize establishment of a register for a group of specialized positions for which a separate recruitment is conducted.
s. 230.25 (4), Stats.

ER-Pers 11.02 (2) Amended. To clarify who may compete in promotional examinations.
s. 230.19 (1) and (3), Stats.

ER-Pers 11.04 (1) (intro.) Amended. To add refusal to certify an applicant as an appropriate action by the administrator under certain circumstances.
s. 230.17 (1), Stats.

ER-Pers 11.04 (1)(d) and (e) Amended. To clarify that removal means removal from a register and to place in rule a requirement that a job-related reason be provided to the administrator as required by current policy on the basis of legal opinion.
s. 230.25 (1), Stats.

ER-Pers 12.03 Amended. To clarify language which establishes selective certification as an appropriate method of employment register use and management.
s. 230.25 (4)(a), Stats.

ER-Pers 12.04 (2) Amended. To clarify meaning of existing rule language.
s. 230.25 (1), Stats.

ER-Pers 12.05 (intro.) and (1) Amended. To incorporate amendment to s. 230.25, Stats.
Section 2105 of Wisconsin Act 29 effective 7/3/85.

ER-Pers 12.05 (2) Repealed and recreated. To set forth criteria used in administering ER-Pers 12.05 (1).
s. 230.25 (1n), Stats.

ER-Pers 12.06 Created. To incorporate amendment to s. 230.25, Stats.
Section 2105 of Wisconsin Act 29 effective 7/3/85.

ER-Pers 12.07 Created. Restates authority of administrator to certify applicants under s. 230.08 (7), Stats., which had been a part of the repealed ER-Pers 12.05 (2).

ER-Pers 13.01 Repealed and recreated. Definition of probationary period placed in ER-Pers 1.02. Definitions of terms used in chapter 13 are cited.

ER-Pers 13.08 (1)(b) Repealed. Material placed in rules as a note.

ER-Pers 13.08 (2) Amended. To incorporate language from repealed section ER-Pers 13.08 (3).
s. 230.08 (1)(a), Stats.

ER-Pers 13.09 Amended. To clarify meaning of existing rule language.
s. 230.28 (1)(a), Stats.

ER-Pers 14.01 Repealed. Definition placed in ER-Pers 1.02.

ER-Pers 14.02 (2) Amended. To eliminate exclusion of persons in layoff status or on an approved leave of absence from the definition of promotional appointment.
s. 230.19 (3), Stats.

ER-Pers 14.02 (3),
(4) and (5) Created. To clarify what the transaction shall be called when an employe is appointed to a different position in a higher class when the employe has reinstatement eligibility or restoration rights.
s. 230.31 (1), Stats.

ER-Pers 15.01 Repealed and recreated. Definition placed in ER-Pers 1.02. Language previously in the transfer definition relating to eligibility for transfer now cited in this section.
s. 230.29, Stats.

ER-Pers 15.03 Amended. To clarify when a probationary period may be required to be served by an employe who transfers to another position.
s. 230.28 (4), Stats.

ER-Pers 15.08 Created. To specify conditions under which employes who transfer to a supervisory or management position may be required to serve a probationary period.
s. 230.28 (1), Stats.

ER-Pers 16.01 Repealed. Definition placed in ER-Pers 1.02.

ER-Pers 16.015 Amended. To provide appointing authorities with flexibility on compensation matters pertaining to appointments which could be considered as either reinstatements or new original appointments.
s. 230.31 (1), Stats.

ER-Pers 16.025 Created. To clarify the period of eligibility for reinstatement and restoration actions.

ER-Pers 16.03 (6)(a) Created. To incorporate concepts regarding rights of persons on leave of absence currently in ER-Pers 18.05 (which is transferred to the DER Secretary) within appropriate section under authority of the administrator and to make clear that persons upon returning from leave of absence are included in the layoff group if a layoff should become necessary.
1. and 2., (b) and (c)
s. 230.34 (2)(b), Stats.

ER-Pers 16.04 (2) Amended. To expand coverage of certain reinstatement provisions to employees who separate while serving a probationary period.
s. 230.31 (2), Stats.

ER-Pers 17.01 Repealed and recreated. Definition placed in ER-Pers 1.02. Eligibility requirement for demotion specified in recreated section.

ER-Pers 17.03 Amended. To incorporate language from existing ER-Pers 12.07 regarding written notice of demotion rather than referencing existing ER-Pers 12.07 since that rule dealing with confirmation of appointments is transferred to the Secretary under Section 2015 (3)(c) of Wisconsin Act 27 effective 7/2/83.
s. 230.28 (1)(a), Stats.

ER-Pers 17.04 (3) Amended. To establish clearly by rule that employees accepting a voluntary demotion must acknowledge acceptance of the demotion in writing and that appointing authorities are required to provide the administrator with a copy of such acceptance.
s. 230.06 (1)(a) and (e), Stats.

ER-Pers 17.04 (4)(b) Amended. To clarify meaning of existing rule language.

ER-Pers 18.05 (2) Repealed. Pers 18 becomes rule of Secretary and repealed section is incorporated in ER-Pers 16.03 (6).

ER-Pers 22.02 (1)(2) Repealed. Definitions placed in ER-Pers 1.02.
and (3)

ER-Pers 22.02 (1), Created. Definitions of terms used in chapter ER-Pers 22.
(2), (3) and (4)

ER-Pers 22.035 Created. To define how a layoff group is identified.
s. 230.34 (2) and (2)(b), Stats.

ER-Pers 22.04 (intro.) Amended. To incorporate the layoff group concept established by proposed ER-Pers 22.02 (4) and to include persons serving on a project employment basis in the group of nonpermanent status employes who must be released prior to laying off an employe with permanent status in class.
s. 230.34 (2) and (2)(b), Stats.

ER-Pers 22.06 Amended. To require that the layoff group reflects the process followed in making appointments to included positions, to make explicit a requirement that appointing authorities recommend the composition of the layoff group and to establish the criteria for exercising exemptions of female, minority and handicapped employes.
s. 230.34 (2)(b), Stats.

ER-Pers 22.08 Amended. To clarify meaning of existing rule language.
s. 230.34 (2) and (2)(b), Stats.

ER-Pers 22.10 (2) Amended. To prohibit placing employes recalled from layoff on probation without regard to their having previously attained permanent status in class.
s. 230.28 (1)(d) and s. 230.34 (2)(b), Stats.

ER-Pers 22.11 (1) Created. To explicitly reiterate the reinstatement eligibility which layoff affected employes have to other employing units of the same agency.
s. 230.34 (2)(b), Stats.

ER-Pers 22.14 Amended. To limit the administrator's authority to approve temporary layoffs by requiring that successive temporary layoffs may only be approved if a permanent layoff plan has been submitted by the appointing authority.
s. 230.34 (2)(b), Stats.

ER-Pers 24.035 Amended. To redefine "hospitality" and the acceptance thereof by classified employes consistent with the manner in which this term is defined by the State Ethics Board.
s. 19.45 (11)(a), Stats.

ER-Pers 24.04 (2) (b) 2. Amended. Clarification of existing rule.

ER-Pers 24.04 (2) (b) 3. Created. Further application of authority specified in ER-Pers 24.04 (2)(b).
s. 19.45 (11)(a), Stats.

ER-Pers 24.04 (2)(e) Amended. To clarify the application of this rule to limited term and project appointments.
s. 19.45 (11)(a), Stats.

ER-Pers 27.01 Repealed and recreated. Specifies purpose for providing for exceptional methods and kinds of employment.

ER-Pers 27.02 Repealed and recreated. New definitions developed to state clearly the meaning of terms used in this chapter.
s. 230.08 (7), Stats.

ER-Pers 27.03 Repealed and recreated. Specifies reasons for which the administrator may authorize use of exceptional methods of employment.
s. 230.08 (7), Stats.

ER-Pers 27.04 Repealed and recreated. Specifies how applicants can qualify for targeted recruitment efforts.
s. 230.08 (7), Stats.

ER-Pers 27.05 Created. Specifies criteria to be used in determining when procedures outlined in ch. ER-Pers 27 can be used.
s. 230.08 (7), Stats.

ER-Pers 27.06 Created. To provide an administratively practical approach for establishing employment lists to use in hiring individuals for exceptional employment situation vacancies.
s. 230.08 (7), Stats.

ER-Pers 27.07 Created. To specify the status of employes appointed to exceptional employment vacancies under various conditions set forth in this chapter.
s. 230.08 (7), Stats.

ER-Pers 30.01 (3) Amended. To clarify the types of movement into career executive positions that convey career executive status.

ER-Pers 30.99 Amended. To make consistent with the purpose of ER-Pers 30.01 and to reduce the potential for inconsistencies within the Career Executive program which have arisen as a result of decisions made by certain incumbents when the program was established in 1975.
s. 230.24 (1) and (3), Stats.

ER-Pers 32.04 Amended. To clarify existing language.
s. 230.06 (1)(e)

ER-Pers 34.03 Amended. To specify criteria the administrator will review in evaluating requests to make project appointments to project positions.
s. 230.27 (2), Stats.

ER-Pers 34.09 (2) Renumbered and amended. To eliminate provisions for undefined modifications to the appointment process for project employes and clarification that the administrator must approve all recruitment and selection procedures for project positions.
s. 230.15 (1) and 230.27 (2), Stats.

ER-Pers 34.10 Created. To specify the penalty for violation of standards for project appointments.
s. 230.05 (2)(a) and 230.27 (2), Stats.

1 STATEMENT OF STATUTORY AUTHORITY

2 Pursuant to the authority vested in the Administrator, State of
3 Wisconsin, Division of Merit Recruitment and Selection, by sections 19.45
4 (11)(a), 230.05 (5), 230.08 (7), 230.16 (11), 230.17 (1), 230.25 (1), 230.26
5 (1), 230.27 (2), 230.31 (1)(b), 230.32 (5) and 230.34 (2)(b), Stats., the
6 Administrator, State of Wisconsin, Division of Merit Recruitment and Selection,
7 proposes to promulgate rules interpreting and administering sections 19.45
8 (11)(a), 230.05 (1), (2)(a) and (5), 230.06 (1)(a) and (1)(e), 230.08 (7),
9 230.15 (1), 230.16 (4), 230.17 (1), 230.19 (1) and (3), 230.21 (1), 230.24 (1)
10 and (3), 230.25 (1), (1n) and (4)(a), 230.27 (2), 230.28 (1)(a) and (d), and
11 (4), 230.29, 230.31 (1) and (2), and 230.34 (2) and (2)(b), Stats., as follows:

TEXT OF PROPOSED CHANGES

12 SECTION 1. ER-Pers 1.01 is amended to read:

13 ER-Pers 1.01 FORCE AND EFFECT OF RULES. ~~These rules of the administrator~~
14 ~~of the division of personnel~~ Chs. ER-Pers 1 to 34 are promulgated under
15 authority of s. 230.05 (5) and ch. 227, Stats., and approved by the Personnel
16 Board, pursuant to s. 230.07 (1)(c), Stats., to specifically apply to
17 provisions of the civil service law, subch. II of ch. 230, Stats. As provided
18 under s. 230.01 (3), Stats., nothing in subch. II of ch. 230, Stats., or in
19 ~~these rules~~ chs. ER-Pers 1 to 34 shall be construed to either infringe upon or
20 supersede the rights guaranteed state employees under the provisions of the
21 state employment labor relations act, subch. V of ch. 111, Stats. ~~These rules~~
22 Chs. ER-Pers 1 to 34 are superseded by the labor contract for employees under
23 such contract for the subjects of bargaining under s. 111.91 (1), Stats.

1 SECTION 2. ER-Pers 1.02 (intro.) is amended to read:

2 ER-Pers 1.02 DEFINITIONS. (intro.) In addition to those terms defined
3 under s. 230.03, Stats., the following are definitions for terms used in ~~these~~
4 ~~rules~~ chs. ER-Pers 1 to 34:

5 SECTION 3. ER-Pers 1.02 (1) to (6) are renumbered 1.02 (2), (4), (6) to
6 (9), and ER-Pers 1.02 (2), (4) and (7), as renumbered, are amended to read:

7 (2) "Appointment" means the action of an appointing authority to place a
8 person in a position within the agency in accordance with the law and ~~these~~
9 ~~rules.~~ chs. ER 1 to 47 and ER-Pers 1 to 34, An appointment shall be effective
10 when the employe reports for work or is in paid leave status on the agreed
11 starting date and time. ~~Acting assignments~~ "Appointment" does not include an
12 acting assignment under ch. ER-Pers 32 ~~are not appointments.~~

13 (4) "Counterpart pay ranges" means pay ranges or groupings of pay ranges
14 in different pay schedules which are designated by the ~~administrator~~ secretary
15 to be at the same level for the purposes of determining personnel transactions.

16 (7) "Employing unit" means an agency or ~~an established~~ a functional,
17 organizational or geographic unit within the agency which has been approved
18 under s. 230.30, Stats., for the agency to use for any one or combination of
19 the following: promotion, demotion, transfer, reinstatement, restoration,
20 layoff and other related personnel transactions.

21 SECTION 3M. ER-Pers 1.02 (7)(intro.) is repealed.

22 SECTION 3R. ER-Pers 1.02 (7)(a) to (e) and (8) to (13m) are renumbered

1 1.02 (21), (31), (14), (32), (26), (15), (16), (18), (20), (22), (23) and (25),
2 and ER-Pers 1.02 (14), (21), (26), (31) and (32), as renumbered, are amended to
3 read:

4 (14) "Limited term employment" means employment in which the nature and
5 conditions do not ~~lead to a career~~ permit attainment of permanent status in
6 class and for which the use of normal procedures for recruitment and
7 examination are not practicable.

8 (21) "Permanent employment" means employment ~~of a career nature that~~ in a
9 position in which permanent status in class may be obtained and which requires
10 the services of an employe for 600 hours or more on an annual basis and
11 includes seasonal employment under sub. (31), sessional employment under sub.
12 (32) and school year employment under s. 230.08 (3)(e), Stats.

13 (26) "Project employment" means employment as a result of a project
14 appointment in a project position ~~which is normally funded for 6 or more~~
15 ~~consecutive months and which requires employment for 600 hours or more per~~
16 ~~26 consecutive biweekly pay periods for a planned undertaking which is not a~~
17 ~~regular function of the employing agency and which has an established probable~~
18 ~~date of termination.~~

19 (31) "Seasonal employment" means employment which normally ~~leads to a~~
20 ~~career~~ permits attainment of permanent status in class through successive
21 reinstatements and requires the services of an employe on an intermittent and
22 recurring basis for at least 600 hours ~~or more~~ each year, during no more
23 than 24 biweekly payroll periods of any 26 consecutive full biweekly payroll
24 periods.

25 (32) "Sessional employment" means employment in positions of legislative
26 ~~service~~ agencies that require the services of an employe more than 600 hours in
27 any 26 consecutive full biweekly payroll periods and which normally ~~leads to a~~
28 ~~career~~ permits attainment of permanent status in class through successive

1 reinstatements, but the duration of which is closely related to the legislative
2 session.

3 SECTION 4. ER-Pers 1.02 (14) is repealed.

4 SECTION 5. ER-Pers 1.02 (15) is renumbered ER-Pers 1.02 (34).

5 SECTION 6. ER-Pers 1.02 (1), (5), (11), (12), (13), (17), (19), (24),
6 (26m), (27) to (30), (33) and (35) are created to read:

7 ER-Pers 1.02 (1) "Agency" has the meaning defined in s. 230.03 (3), Stats.

8 (5) "Demotion" means the permanent appointment of an employe with
9 permanent status in one class to a position in a lower class than the highest
10 position currently held in which the employe has permanent status in class,
11 unless excluded under s. ER-Pers 17.02.

12 (11) "Layoff" means the termination of the services of an employe with
13 permanent status in class from a position in a layoff group approved under
14 s. ER-Pers 22.05, in which a reduction in force is to be accomplished.

15 (12) "Leave of absence" means absence from employment with the approval
16 of the appointing authority with or without loss of pay in accordance with the
17 appropriate statutory provision or rule.

18 (13) "Limited term appointment" means the appointment of a person to
19 perform a grouping of duties and responsibilities on a non-project basis under
20 conditions of employment which do not provide for attainment of permanent
21 status under s. 230.26 (1), Stats.

22 (17) "Month" means a calendar month or the period from a given date in
23 one month through the date preceding the given date in the following month,
24 whichever the context requires.

1 (19) "Pay range" means either of the following:

2 (a) With respect to a classification to which a non-trainee position is
3 allocated, the range on an official hourly basis as prescribed in the
4 compensation plan.

5 (b) With respect to a classification to which a trainee position is
6 allocated, the minimum of the pay range for the trainee position up to the
7 maximum of the pay range for a non-trainee position allocated to the same
8 class.

9 (24) "Probationary period" means the time period specified in s. 230.28,
10 Stats.

11 (26m) "Project position" has the meaning defined in s. 230.27 (1), Stats.

12 (27) Except as provided in s. ER-Pers 14.02, "promotion" means any of the
13 following:

14 (a) The permanent appointment of an employe to a different position in a
15 higher class than the highest position currently held in which the employe has
16 permanent status in class;

17 (b) The permanent appointment of an employe or former employe in layoff
18 status to a different position in a higher class than the highest position in
19 which permanent status in class was held at the time the employe or former
20 employe became subject to layoff; or

21 (c) The permanent appointment of an employe on an approved leave of
22 absence, either statutorily mandated or granted by an appointing authority, to
23 a different position in a higher class than the highest position in which
24 permanent status in class was held at the time the employe began the leave of
25 absence.

26 (28) "Recruitment option" means a grouping of job duties and
27 responsibilities common to one or more positions assigned to a classification
28 or classifications, used by the administrator to establish layoff groups under
29 s. ER-Pers 22.06, selectively certify eligibles under s. ER-Pers 12.03 or

1 establish registers under s. 230.25 (4)(a), Stats.

2 (29) "Reinstatement" means the act of permissive re-appointment without
3 competition of an employe or former employe under ss. 230.31, 230.33 or 230.34,
4 Stats., to a position:

5 (a) In the same class in which the person was previously employed;

6 (b) In another class to which the person would have been eligible to
7 transfer had there been no break in employment; or

8 (c) In a class having a lower pay rate or pay range maximum for which the
9 person is qualified to perform the work after the customary orientation
10 provided to newly hired workers in the position.

11 (30) "Restoration" means the act of mandatory re-appointment without
12 competition of an employe or former employe under ss. 230.31, 230.32, 230.33 or
13 230.34, Stats., to a position:

14 (a) In the same class in which the person was previously employed;

15 (b) In another classification to which the person would have been
16 eligible to transfer had there been no break in employment; or

17 (c) In a class having a lower pay rate or pay range maximum for which the
18 person is qualified to perform the work after the customary orientation
19 provided to newly hired workers in the position.

20 (33) "Transfer" means the permanent appointment of an employe to a
21 different position assigned to a class having the same or counterpart pay rate
22 or pay range as a class to which any of the employe's current positions is
23 assigned.

24 (35) "Year" means a calendar year or the period from a given date in one
25 year through the date preceding the given date in the following year, whichever
26 the context requires.

27 SECTION 7. ER-Pers 1.03 is created to read:

1 ER-Pers 1.03 TIME, HOW COMPUTED. In chs. ER-Pers 1 to 34, the time within
2 which an act is to be done or a proceeding taken shall be computed under
3 s. 990.001 (4), Stats.

4 SECTION 8. ER-Pers 6.01, 6.02, 6.025 and 6.027 are amended to read:

5 ER-Pers 6.01 BASE OF RECRUITMENT. The administrator, in determining the
6 most appropriate base of recruitment for classified civil service positions,
7 shall consider such factors as: ~~achievement and maintenance of a balanced~~
8 ~~workforce~~ affirmative action; agency goals; staff development patterns;
availability of qualified
9 applicants in the service, agency or the employing unit, and effect on employe
10 morale or turnover; designated promotional patterns in the classification
11 series; availability of trained people in the labor market, including the
12 number who have completed or are completing training for the type and level of
13 positions; value of bringing new personnel with different backgrounds into the
14 service; current pay; employe benefits and hiring practices for the types of
15 positions; the interests of other agencies which may use the eligible lists;
16 and efficieny in conducting recruitment programs and examinations.

17 ER-Pers 6.02 RECRUITMENT INFORMATION. Recruitment information shall be
18 directed to labor market sources which the administrator determines are most
19 likely to provide qualified applicants and ~~will achieve and maintain a work-~~
20 ~~force which is a balanced representation of the citizenry of the state~~ with due
21 consideration given to affirmative action.

22 ER-Pers 6.025 EMPLOYES ON LEAVE OF ABSENCE OR IN LAYOFF STATUS. An
23 ~~Employes~~ employe on leave of absence, in layoff status under s. ER-Pers 22.06
24 (3) or (4) or provisions of applicable labor agreements with certified
25 bargaining units, or on seasonal layoff under s. ER-Pers 22.12 (1), shall be
26 eligible to participate in the civil service selection process on the same

1 basis as ~~classified civil service employees~~ if the employee was not on a leave of
2 absence or the layoff had not occurred.

3 ER-Pers 6.027 EMPLOYES ON TEMPORARY INTERCHANGE. A classified employe
4 who is on a temporary interchange under s. 230.047, Stats., is eligible to
5 compete in promotional examinations during the interchange assignment on the
6 same basis as if the interchange assignment had not occurred.

7 ("NOTE" to be inserted after s. ER-Pers 6.05)

8 NOTE: The provisions relating to Reimbursement of Applicant's Travel
9 Expenses are now incorporated in the Travel Schedule Amounts of the
10 Compensation Plan for positions in the classified service.

11 SECTION 9. ER-Pers 6.07 and 6.08 (1) are amended to read:

12 ER-Pers 6.07 EXAMINATION RESULTS. The administrator shall make available
13 to Each each examinee shall be given written notice the final results of his or
14 her final results examinations through such methods as written notice, public
15 posting or any other means deemed appropriate by the administrator.

16 ER-Pers 6.08 RELEASE OF EXAMINATION INFORMATION. (1) ~~Any examinee may~~
17 ~~be given information on the results of his or her examination and the methods~~
18 ~~by which such results were determined in accordance with the following~~
19 ~~provisions:~~

20 ~~(a)~~ The following examination information may be released to an examinee:

21 (a) The composition of the examination, ~~as determined in~~
22 ~~s. ER-Pers 6.05 (2),;~~

23 (b) The weight of, the total possible score of, and the examinee's score
24 on, each separately scored component of the examination; ~~the results of~~
25 ~~performance or physical tests;~~ and

26 (c) Information as to whether veterans preference was included in ~~the~~ his
27 or her final grade.

1 ~~(b) (2) Information~~ Examination information which ~~shall~~ may not be
2 released ~~under this section~~ includes but is not limited to the following:

3 (a) copies of examination booklets, rating guides and scoring keys;

4 (b) copies of written comments of examination raters including oral board
5 members;

6 (c) tapes of oral examinations;

7 (d) results of medical examinations except through the examinee's
8 designated physician;

9 (e) scores of ~~other~~ candidates identified by name ~~except for those~~
10 ~~certified for employment~~; and

11 (f) answers to specific items on writtten examinations.

12 SECTION 10. ER-Pers 6.08 (2) is repealed.

13 SECTION 11. ER-Pers 6.09 (1) is amended to read:

14 ER-Pers 6.09 ANONYMITY OF EXAMINEES AND SECURITY FOR EXAMINATIONS.

15 (1) The administrator shall ~~use appropriate means to insure that the identify~~
16 delete the names of the examinees ~~in no way influences their score in a written~~
17 examination from written examination papers that will be scored by raters and
18 instruct raters who nonetheless recognize the identity of examinees to
19 disqualify themselves from rating any examinee whom they cannot objectively
20 evaluate.

21 SECTION 12. ER-Pers 6.105 and 6.11 are renumbered 6.11 and 6.12.

22 SECTION 13. ER-Pers 7.01 is amended to read:

23 ER-Pers 7.01 GENERAL. The administrator may designate unskilled labor

1 and service classes and may establish separate recruitment, examination and
2 certification procedures ~~which shall be practical, take affirmative action into~~
3 ~~account and which shall be appropriate for the establishment and maintenance of~~
4 ~~employment registers based on merit and fitness~~ for such classes.

5 SECTION 14. ER-Pers 7.02 is created to read:

6 ER-Pers 7.02 CERTIFICATION FOR LABOR AND SERVICE CLASSES. (1) The
7 administrator may use methods of random certification to determine which
8 applicants for labor and service employment will receive further employment
9 consideration.

10 (2) The number of applicants to receive further employment consideration
11 when random certification is used shall not exceed the number which would be
12 certified under s. 230.25 (1), Stats.

13 SECTION 15. ER-Pers 10.01 (1) is repealed.

14 NOTE: The definition of limited term appointment is set forth under ER-
15 Pers 1.02 (13).

16 SECTION 16. ER-Pers 10.03 and 10.04 (2) are amended to read:

17 ER-Pers 10.03 APPROVAL BY ADMINISTRATOR. Prior approval of the
18 ~~classification, pay rate and duration of a limited term~~ appointment by the
19 administrator is required before making a limited term appointment.

20 NOTE: Section 2015 (3)(c) of 1983 Wisconsin Act 27, granted authority for
21 approval of the duration of limited term appointments to the administrator,

1 division of merit recruitment and selection, and authority for approval of
2 class and pay rate for limited term appointments to the secretary, department
3 of employment relations. This revision reflects that division of authority
4 with respect to limited term appointments.

5 ER-Pers 10.04 PROCEDURES AND RECORDS. (2) In order to safeguard the
6 public interest, recruitment and selection procedures must be approved by the
7 administrator, and the appointing authority shall maintain such records of the
8 procedures followed in making limited term appointments as are determined to be
9 necessary by the administrator. Limited term appointments shall be made so as
10 to contribute to a competent ~~and balanced~~ work force with due consideration
11 given to affirmative action.

12 SECTION 17. ER-Pers 11.01 (2) is amended to read:

13 ER-Pers 11.01 (2) Employment Registers under s. ER-Pers 11.02, may be
14 established by functional grouping of titles, class title ~~or~~, subtitle or
15 recruitment option.

16 SECTION 18. ER-Pers 11.02 (2) is amended to read:

17 ER-Pers 11.02 (2) PROMOTIONAL. (a) Promotional registers ~~are registers~~
18 ~~that~~ are established through competition which is open to qualified applicants
19 within state service who:

20 1. ~~have~~ Have permanent status and occupy a permanent, seasonal,
21 seasonal or project position, or are on an approved leave of absence, either
22 statutorily mandated or granted by an appointing authority, from such a
23 position;

24 2. Are former employes who have restoration rights resulting from layoff

1 under s. 230.34 (2), Stats., or applicable collective bargaining agreements; or
2 ~~who~~

3 3. are Are serving a probationary period in a position in which permanent
4 status can be attained.

5 (b) This competition Competition under this subs. may be limited and
6 separate registers of qualified applicants under par. (a) may be established in
7 ~~one of the following ways~~ order of preference:

8 ~~(a) Servicewide~~ 1. Eligible persons employed within state service.

9 ~~(b) Agency~~ 2. Eligible persons employed within an agency.

10 ~~(c) Employing~~ 3. Eligible persons employed within an employing unit.

11 SECTION 19. ER-Pers 11.04 (1)(intro.), (d), (e), and (f) are amended to
12 read:

13 ER-Pers 11.04 REMOVAL OF NAMES FROM REGISTERS; REFUSAL TO CERTIFY
14 APPLICANTS. (1)(intro.) In addition to the reasons given in s. ER-Pers 6.10,
15 the administrator may remove a name from a register or refuse to certify an
16 applicant under any of the following circumstances:

17 (d) Non-selection after 3 appointments. For each 3 appointments made from
18 a register, up to 2 persons who have been considered for appointment 3 times
19 and not selected may be removed from the register. Such removals shall be
20 based upon a job-related reason reported to the administrator by the appointing
21 authority.

22 (e) Termination from state service. Upon notification by an appointing
23 authority of the resignation or termination, other than by layoff, of an
24 employee, a person's the employee's name shall be removed from any promotional
25 registers.

26 (f) Limitations on certifications. After a person has been certified from
27 a register to 3 vacancies, the person's name may be suspended from the register

1 and not included in subsequent certifications from the register when, in the
2 judgment of the administrator, such action is consistent with ~~maintenance of a~~
3 ~~balanced work force and~~ sound, technical, personnel management practices as
4 required by s. 230.17, Stats., and with affirmative action as required by
5 s. 230.03 (2)(a) to (c).

6 SECTION 20. ER-Pers 12.03 is amended to read:

7 ER-Pers 12.03 SELECTIVE CERTIFICATION. Whenever ~~in exceptional~~
8 ~~circumstances an appointing authority demonstrates a clear need for a specific~~
9 position within a classification requires special qualifications, such as
10 ~~specialized training or pertinent prior experience, and such request is~~
11 ~~approved by the administrator, selective certification may be made of~~ may
12 selectively certify persons having those qualifications. In such cases, the
13 qualifications of the ~~eligible~~ eligible persons on the register shall be
14 reviewed to determine if they ~~possess~~ include the required special
15 qualifications beginning with the highest ranking eligible person and
16 continuing until the administrator determines certification can should be made.
17 ~~The administrator shall place on file the reasons for making such~~
18 ~~certifications.~~

19 SECTION 21. ER-Pers 12.04 (2) is amended to read:

20 ER-Pers 12.04 (2) The administrator may certify additional names from
21 registers of related ~~higher~~ classes ~~or classes~~ in the same ~~or~~, counterpart or
22 higher pay ranges to fill out an incomplete certification, or may make a
23 ~~complete~~ certification from registers of ~~related higher classes or classes in~~
24 the same, counterpart or higher pay ranges when no register exists for the
25 class for which certification is requested. ~~This is provided~~ Such decisions

1 shall include a determination by the administrator that the examinations for
2 the same or higher classes or classes in counterpart pay ranges are job related
3 for the work of the position for which certification is to be made.

4 SECTION 22. ER-Pers 12.05 (intro.) is amended to read:

5 ER-Pers 12.05 USE OF EXPANDED CERTIFICATION FOR A SPECIFIED GENDER AND
6 MINORITIES. The administrator may, ~~when necessary to achieve a balanced work~~
7 ~~force or to hire persons with disabilities,~~ provide for certifications under
8 the provisions of s. 230.25 (1n), Stats., as a supplement to certifications
9 made under the provisions of s. 230.24 (1) or s. 230.25 (1) and (1m), Stats.,
10 ~~as follows:~~

11 SECTION 23. ER-Pers 12.05 (1) and (2) are repealed.

1 SECTION 24. ER-Pers 12.06 is created to read:

2 ER-Pers 12.06 HANDICAPPED EXPANDED CERTIFICATION. Upon request of an
3 agency, the administrator may provide for certifications under the provisions
4 of s. 230.25 (1n), Stats., as a supplement to certifications made under the
5 provisions of s. 230.24 (1) or 230.25 (1) and (1m), Stats.

6 SECTION 25. ER-Pers 12.07 is renumbered to 12.08 and amended to read:

7 ER-Pers 12.08 CONFIRMATION OF APPOINTMENT. Confirmation of appointment
8 shall be ~~made~~ in writing by the appointing authority and shall be sent to the
9 employee no later than the first day of employment. Such letter of appointment
10 shall include conditions of employment such as starting date, rate of pay, and
11 probationary period to be served.

12 SECTION 26. ER-Pers 12.07 is created to read:

13 ER-Pers 12.07 ADDITIONAL CERTIFICATIONS. Upon request of an agency, the
14 administrator may, under s. 230.08 (7), Stats., certify additional names to
15 supplement those certified under s. ER-Pers 12.06. The additional names shall
16 be those of handicapped candidates for whom the administrator has waived the
17 test requirement. The administrator may waive the test requirement for a
18 handicapped person under this section if the administrator determines that the
19 handicap precludes the person from equitably participating in the tests used to
20 examine candidates certified under s. 230.24 (1) or 230.25, Stats., because of
21 impaired sensory, manual, reading or speaking skills not related to the tasks
22 to be performed after reasonable accommodations have been made on the job.

1 SECTION 27. ER-Pers 13.01 is repealed and recreated to read:

2 ER-Pers 13.01 DEFINITIONS. (intro.) The following are definitions for
3 terms used in this chapter.

4 (1) "Student cooperative program" means those cooperative programs in
5 which individuals participate as provided in s. 230.22 (4), Stats.

6 (2) "Understudy" means any person appointed under s. 230.04 (11), Stats.

7 NOTE: The definition of probationary period is set forth under s. ER-Pers
8 1.02 (24).

9 SECTION 28. ER-Pers 13.015 is created to read:

10 ER-Pers 13.015 PURPOSE. During the probationary period the work of the
11 employe is to be closely observed to determine if the employe is effectively
12 able to carry out the assigned duties and responsibilities on a continuing
13 basis.

14 SECTION 29. ER-Pers 13.02 (1) is amended to read:

15 ER-Pers 13.02 (1) In the case of an understudy, intern, trainee, student
16 cooperative program or an apprentice appointment, the probationary period shall
17 be lengthened by the total length of such understudy, intern, trainee, student
18 cooperative program or apprentice period.

19 SECTION 30. ER-Pers 13.03 is amended to read:

20 ER-Pers 13.03 WHEN PROBATION REQUIRED. A probationary period is required
21 for ~~all~~:

22 (1) All ~~Original~~ original appointments; ~~and~~

1 (2) ~~All Promotional~~ promotional appointments;

2 (3) ~~TRAINEE, INTERN, APPRENTICE, OR UNDERSTUDY APPOINTMENT. (a) For the~~
3 The duration that an employe is serving a trainee, intern, apprentice, student
4 cooperative program or understudy appointment; and
5 ~~(b)~~ (4) Upon qualifying for the objective classification after completion of
6 the trainee, intern, apprentice, student cooperative program or understudy
7 period.

8 SECTION 31. ER-Pers 13.08 (1)(b) is repealed.

9 SECTION 32. ER-Pers 13.08 (2) is amended to read:

10 ER-Pers 13.08 (2) DISMISSAL NOTICE REQUIRED. When ~~an~~ a probationary
11 employe is to be dismissed, the appointing authority shall immediately ~~notify~~
12 ~~in writing~~ provide written notice to the employe to be dismissed of the reasons
13 for dismissal ~~and~~, the date on which dismissal is to occur, and ~~send a~~ that the
14 employe may be restored to the register from which he or she was appointed, if
15 it still exists, upon request to and with the approval of the administrator
16 pursuant to s. 230.28 (3), Stats. A copy of such notice shall be sent to the
17 administrator. An employe who has permanent status and is dismissed while on a
18 probationary period under the provisions of s. ER-Pers 14.03 or 15.055, shall
19 also be notified whether or not the employe will be restored to the employe's
20 former position, or to a position assigned to a class having the same pay rate
21 or pay range maximum, or to a position in a class assigned to a counterpart pay
22 rate or pay range.

23 SECTION 33. ER-Pers 13.08 (3) is repealed.

24 NOTE: For rights of employes who are terminated from a position while

1 serving a probationary period resulting from promotion, transfer or demotion
2 see chs. ER-Pers 14, 15 or 17, respectively.

3 SECTION 34. ER-Pers 13.09 is amended to read:

4 ER-Pers 13.09 ATTAINMENT OF PERMANENT STATUS IN CLASS. Permanent status
5 in class is attained immediately upon completion of the last work period to
6 which the employe was assigned to work ~~period of the~~ during his or her
7 probationary period regardless of whether it falls on or before the last day of
8 the probationary period. Prior to the end of the probationary period, the
9 appointing authority shall notify the employe in writing that the employe will
10 attain permanent status in class. No employe may be denied permanent status in
11 class after successfully completing a probationary period because an
12 appointing authority fails to submit notice.

13 SECTION 35. ER-Pers 14.01 is repealed.

14 NOTE: The definition of promotion is set forth under
15 s. ER-Pers 1.02 (27).

16 SECTION 36. ER-Pers 14.02 (2) is amended to read:

17 ER-Pers 14.02 (2) The appointment of a former employe who previously had
18 permanent status in class to a position in a higher classification than the
19 employe's former class, after a break in service not covered by leave of
20 absence provisions of ch. ER 18 or a collective bargaining agreement, or the
21 layoff provisions of ch. ER-Pers 22 or a collective bargaining agreement, shall
22 be considered an original appointment.

1 SECTION 37. ER-Pers 14.02 (3) is renumbered 14.02 (6) and amended to
2 read:

3 ER-Pers 14.02 (6) For provisions relating to the appointment of persons
4 or employes to positions classified as trainee, see s. ~~ER-Pers 6.12~~ ER 44.09.

5 SECTION 38. ER-Pers 14.02 (3), (4) and (5) are created to read:

6 ER-Pers 14.02 (3) The permissive appointment of an employe to a different
7 position in a higher class than the highest position currently held in which
8 the employe has permanent status in class, when the employe has reinstatement
9 eligibility to the higher class, is a reinstatement, except as provided in
10 sub. (5) below.

11 ER-Pers 14.02 (4) The appointment of an employe to a different position
12 in a higher class than the highest position currently held in which the employe
13 has permanent status in class, when the employe has restoration rights to the
14 higher class, is a restoration.

15 ER-Pers 14.02 (5) The permissive appointment of an employe to a different
16 position in a higher class than the highest position currently held in which
17 the employe has permanent status in class, when the employe has been certified
18 from a register as eligible for appointment, is a promotion when the position
19 is in a class, class subtitle or progression series in which the employe has
20 not previously attained permanent status in class. Such appointments are
21 reinstatements when the employe is appointed on the basis of qualifying for the
22 position other than as a result of being certified as eligible for appointment
23 from a register.

24 SECTION 39. ER-Pers 14.03 (1) is amended to read:

25 ER-Pers 14.03 KINDS OF PROMOTION; STATUS AND RIGHTS. (1) PROMOTION

1 WITHIN THE SAME AGENCY. In accordance with s. 230.28 (1), Stats., the promoted
2 employe shall be required to serve a probationary period. At any time during
3 this period, the appointing authority may remove the employe from the position
4 to which the employe was promoted without the right of appeal and shall restore
5 the employe to the employe's former position or a similar position and former
6 rate of pay, as determined under s. ~~ER-Pers 29.03 (6)~~ ER 29.03 (7)(a). Any
7 other removal, suspension without pay, or discharge during the probationary
8 period shall be subject to s. 230.44 (1)(c), Stats. If the position to which
9 the employe has restoration rights has been abolished, the employe shall be
10 given consideration for any other vacant position in the same or counterpart
11 pay range for which the employe is determined to be qualified by the appointing
12 authority to perform the work after being given the customary orientation
13 provided for newly hired workers. If no such vacant position exists, the
14 employe shall be treated as if he or she had been restored to the position held
15 prior to promotion and the provisions for making layoffs under ch. ER-Pers 22
16 shall apply.

17 NOTE: For pay on promotion, new promotion and restoration, see
18 ss. ER 29.03 (4)(b), (4)(c) and (7)(a), respectively.

19 SECTION 40. ER-Pers 15.01 is repealed and recreated to read:

20 ER-Pers 15.01 ELIGIBILITY FOR TRANSFER. To be eligible for transfer, an
21 employe shall be qualified to perform the work of the position to which the
22 employe would transfer after customary orientation provided for a newly hired
23 worker in the position.

24 NOTE: The definition of transfer is set forth under s. ER-Pers 1.02 (32).

1 SECTION 41. ER-Pers 15.02 is repealed and recreated to read:

2 ER-Pers 15.02 AUTHORIZATION BY ADMINISTRATOR. The administrator will
3 authorize a transfer when requested by an appointing authority providing the
4 appointing authority has determined that the employe meets the eligibility
5 requirement under s. ER-Pers 15.01 and that the position to which the employe
6 is transferring is assigned to a class in the same or counterpart pay rate or
7 pay range to which any of the employe's current positions is assigned, and such
8 documentation is provided to the administrator. The administrator may delegate
9 this authority to appointing authorities.

10 SECTION 42. ER-Pers 15.03 is amended to read:

11 ER-Pers 15.03 TRANSFER BETWEEN AGENCIES. An employe who transfers
12 between agencies may be required by the appointing authority to serve a
13 probationary period ~~resulting from the transfer~~, except that a probationary
14 period shall be required upon transfer to ~~a trainee~~ any position identified in
15 s. ER-Pers 13.02 (1). An employe serving such a probationary period after
16 transferring from a position in which the employe had permanent status in class
17 or who has transferred under s. ER-Pers 15.07, may be separated from the
18 service without the right of appeal at the discretion of the appointing
19 authority. See s. 230.31, Stats., for provisions relating to the reinstatement
20 eligibility of a person so dismissed.

21 NOTE: For pay on transfer see s. ER-Pers 29.03 (5).

22 SECTION 43. ER-Pers 15.08 is created to read:

23 ER-Pers 15.08 TRANSFER TO A SUPERVISORY OR MANAGEMENT POSITION. An

1 employe who transfers to a supervisory or management position within the same
2 employing unit may not be required to serve a probationary period. An employe
3 who transfers to a supervisory or management position in a different employing
4 unit of the same agency or in another agency may be required, at the discretion
5 of the appointing authority, to serve a probationary period. Such a
6 probationary period shall be served in accordance with the provisions of
7 ss. 230.28 (1)(am) and (4), Stats.

8 SECTION 44. ER-Pers 16.01 (1) is repealed.

9 NOTE: The definitions of reinstatement and restoration are set forth
10 under s. ER-Pers 1.02 (29) and (30), respectively.

11 SECTION 45. ER-Pers 16.01 (2) is renumbered 16.01 and amended to read:

12 ER-Pers 16.01 ~~Re-appointment~~ Reappointment under ~~sub. (1)~~ this chapter
13 may be either permissive at the discretion of the appointing authority or
14 mandatory as required by the law or rule of the administrator. In those
15 instances where an employe or former employe has "eligibility" for
16 reinstatement, the action is permissive. In those instances where an employe
17 or former employe has the "right" of restoration, the action is mandatory. ~~In~~
18 ~~these rules of the administrator, "reinstatement" refers to a permissive act~~
19 ~~and "restoration" refers to a mandatory right.~~

20 SECTION 46. ER-Pers 16.015 is renumbered 16.015 (1) and amended to read:

21 ER-Pers 16.015 (1) RETURN FOLLOWING A BREAK IN SERVICE NOT COVERED BY
22 LEAVE OR LAYOFF. The appointment of a former employe, who previously acquired
23 permanent status in class, to a position in a counterpart or lower

1 ~~classification~~ class than the one in which permanent status in class was
2 acquired, following a break in service not covered by leave or the layoff
3 provisions of these rules or applicable collective bargaining agreement, shall
4 be considered as an original appointment except when it may be considered a
5 reinstatement under s. ER-Pers 16.035 and the appointing authority chooses to
6 treat such appointment as a reinstatement.

7 SECTION 47. ER-Pers 16.015 (2) is created to read:

8 (2) RETURN TO A POSITION AT A HIGHER LEVEL. For provisions relating to
9 appointment of persons who previously had permanent status in class to a
10 position in a higher class see s. ER-Pers 14.02 (2).

11 SECTION 47M. ER-Pers 16.025 is created to read:

12 ER-Pers 16.025 PERIOD OF ELIGIBILITY. The period of eligibility for all
13 reinstatements and restorations shall begin with the date of separation from
14 the position in which the eligibility was earned and end with the last day of
15 the 3rd year after the date of separation. Any act of reinstatement or
16 restoration must become effective during the 3-year period of eligibility.

17 NOTE: For definition of year, see ER-Pers 1.02 (35).

18 SECTION 48. ER-Pers 16.03 (4) (title) is created to read:

19 ER-Pers 16.03 (4) (title) RETURN FROM SERVING IN THE UNCLASSIFIED SERVICE.

20 SECTION 49. ER-Pers 16.03 (6) is renumbered ER-Pers 16.03 (6)(a)(intro.)
21 and amended to read:

1 ER-Pers 16.03 (6) RETURN FROM APPROVED LEAVE WITHOUT PAY OR SUMMER LEAVE.

2 (a)(intro.) Return from approved leave without pay or summer leave shall be
3 treated as if it were a restoration ~~in accordance with the provisions of s. ER-~~
4 ~~Pers 18.05 (2).~~ under either of the following:

5 SECTION 50. ER-Pers 16.03 (6)(a) 1. and 2., (b) and (c) are created to
6 read:

7 ER-Pers 16.03 (6)(a) 1. A position at the same level is available.
8 Except as provided in sub. 2, upon the expiration of an approved leave of
9 absence without pay, or sooner if the appointing authority agrees, a classified
10 employe may return to his or her position or to a position in the same or
11 counterpart pay range for which the employe is qualified to perform the work
12 after being given the customary orientation provided for a newly hired worker
13 in the position.

14 2. No position at the same level is available. If the position is filled
15 while the employe is on leave or if the position has been abolished and there
16 is no other vacant position available in the same or counterpart pay range in
17 the agency, the employe shall be treated as if he or she had been restored to
18 the previous position, and the provisions for making layoffs under
19 ch. ER-Pers 22 shall apply.

20 (b) Effect on continuous service and sick leave upon return from leave.
21 Approved leaves without pay shall not operate to interrupt the continuous
22 service or cancel the unused accumulated sick leave of the absent employe.

23 (c) Pay upon return from leave. See s. ER 29.03 (7).

24 SECTION 51. ER-Pers 16.035 (3) is amended to read:

25 ER-Pers 16.035 (3) DOWNWARD REALLOCATION OR RECLASSIFICATION OF A

1 POSITION. An employe whose position has been reallocated or reclassified to a
2 classification with a lower pay rate or pay range maximum shall have
3 reinstatement eligibility in any agency for 3 years from the date of the
4 action. For definitions of reallocation and reclassification, see
5 s. ER 3.01 (2) and (3) respectively.

6 SECTION 52. ER-Pers 16.04 (2) is amended to read:

7 ER-Pers 16.04 (2) TERMINATION DURING THE PROBATIONARY PERIOD. A person
8 who resigns from a permanent, ~~seasonal or sessional~~ position or who is
9 terminated ~~due to a pending layoff~~ while serving a probationary period may be
10 reinstated to a position in the same class or in a lower class than the
11 position from which the employe resigned or was terminated by the an appointing
12 authority at any time during a three year period from the date of termination
13 providing the person is qualified to perform the work after the customary
14 orientation provided to a newly hired worker in the position. The probationary
15 time already served may be carried over by the appointing authority, except as
16 provided in s. 230.32 (2)(b), Stats. The appointing authority shall determine
17 the amount of carryover at the time of the reinstatement and shall give written
18 notice of the amount to the employe. The appointing authority shall keep a
19 ~~record~~ copy of that notice on file.

20 NOTE: For pay on reinstatement and restoration, see
21 ss ER 29.03 (6) and (7), respectively.

22 SECTION 53. ER-Pers 17.01 is repealed and recreated to read:

23 ER-Pers 17.01 ELIGIBILITY FOR DEMOTION. To be eligible for demotion, an
24 employe must be qualified to perform the work of the position after the

1 customary orientation provided for a newly hired worker in the position.

2 NOTE: The definition of demotion is set forth in s. ER-Pers 1.02 (5).

3 SECTION 54. ER-Pers 17.03 is amended to read:

4 ER-Pers 17.03 NOTICE TO EMPLOYEE. The appointing authority shall notify
5 ~~the affected~~ an employe who is being demoted of the action and the reasons for
6 the action at least 5 working days prior to the effective date of the action.
7 Such notification shall be in writing in accordance with the provisions of s.
8 ER-Pers 12.07 and shall advise the employe of his or her right to appeal the
9 action under s. 230.44 (1)(c), Stats. The appointing authority shall send a
10 copy of the notification to the administrator.

11 SECTION 55. ER-Pers 17.04 (3)(intro.) and (4)(b) are amended to read:

12 ER-Pers 17.04 (3) VOLUNTARY DEMOTION WITHIN AN AGENCY. (intro.) An
13 employe may request and with the approval of the appointing authority be
14 voluntarily demoted within the agency either to a position in the same
15 employing unit, or to a position in a different employing unit. ~~Both the~~ The
16 employe's request, and the appointing authority's response, and the employe's
17 acceptance of the demotion shall be in writing. A copy of the employe's
18 acceptance shall be sent to the administrator.

19 (4)(b) ~~The~~ An employe demoted under this section may be required by the
20 appointing authority to serve a probationary period, ~~except that a.~~ A
21 probationary period shall be required for demotion to ~~a trainee~~ any position
22 identified in s. ER-Pers 13.02 (1). During ~~this~~ the probationary period, the
23 employe may be separated from the service without the right of appeal. If the
24 employe is not required to serve a probationary period, the employe immediately

1 attains permanent status in class in the class to which demoted.

2 NOTE: For pay on voluntary demotion or demotion for disciplinary purposes
3 see s. ER 29.03 (8).

4 SECTION 56. ER-Pers 18.05 (2) is repealed.

5 SECTION 57. ER-Pers 22.02 (1), (2) and (3) are repealed.

6 NOTE: The definitions of employing unit, layoff and recruitment option
7 are set forth under s. ER-Pers 1.02 (7), (11) and (28), respectively.

8 SECTION 58. ER-Pers 22.02 (1), (2), (3) and (4) are created to read:

9 ER-Pers 22.02 DEFINITIONS. (intro.) The following are definitions for
10 terms used in this chapter:

11 (1) "Continuous service," has the meaning given under s. ER 1.02 (4).

12 (2) "Layoff group" means an aggregation of related positions which is the
13 group of employes from which the layoff will be made.

14 (3) "Progression series," has the meaning given under s. ER 1.02 (28).

15 (4) "Subtitle" means a secondary explanatory title which is used to
16 identify positions whose duties distinguish them from other positions in the
17 same class in terms of the qualifications required for successful performance
18 in the position.

19 SECTION 59. ER-Pers 22.03 (3)(c) is amended to read:

20 ER-Pers 22.03 (3)(c) School year employes at institutions and schools,

1 during recesses in the academic year or summer. In accordance with s. ~~ER-Pers~~
2 ~~18.05 (1)(c)~~ ER 18.14 (2)(c), such employes shall be considered on an approved
3 leave of absence without pay during these periods.

4 SECTION 60. ER-Pers 22.035 is created to read:

5 ER-Pers 22.035 LAYOFF GROUP. (1) The layoff group may be identified by,
6 but not limited to:

7 (a) A class;

8 (b) Class subtitle;

9 (c) Progression series that has been approved by the secretary for use by
10 the agency; or

11 (d) Recruitment option.

12 (2) All positions in the layoff group must be in the same pay range except
13 when the layoff group is a progression series which has been approved by the
14 secretary for use by the agency.

15 SECTION 61. ER-Pers 22.04 (intro.) is amended to read:

16 ER-Pers 22.04 CERTAIN EMPLOYES RELEASED FIRST. (intro.) Before an
17 employe with permanent status in class ~~is~~ may be laid off, the appointing
18 authority shall terminate all employes in the ~~same class, class subtitle or~~
19 ~~progression series~~ approved layoff group in the employing unit in which the
20 layoff occurs who are performing duties which the employe would be qualified to
21 perform after being given the customary orientation provided to newly hired
22 workers ~~in such positions, as follows~~ and who are:

23 SECTION 62. ER-Pers 22.06 is amended to read:

1 ER-Pers 22.06 PROCEDURE FOR MAKING LAYOFFS. (1) ~~The~~ In the layoff plan
2 submitted to the administrator, under ER-Pers 22.05, the appointing authority
3 ~~shall identify the class, the class subtitle as approved by the administrator at~~
4 ~~the time of layoff, or the classification progression series approved by the~~
5 ~~administrator,~~ recommend the layoff group in which the layoff is to occur,
6 ~~hereafter called the layoff group.~~ The layoff group shall reflect the staffing
7 processes followed for included positions. Full-time and part-time positions
8 may constitute different layoff groups.

9 (2) The appointing authority may exempt from the layoff group up to 2
10 employees or 20%, whichever is greater, of the number of employees in the layoff
11 group to retain employees having special or superior skills or for other ~~such~~
12 purposes as ~~may be~~ determined by the appointing authority. In addition, for
13 affirmative action purposes, as defined in s. 230.03 (2), Stats., the
14 appointing authority may exempt, subject to the approval of the administrator,
15 female, minority and handicapped employees in the layoff group. ~~in a manner~~
16 ~~that retains the proportional representation of each of these groups in the~~
17 ~~layoff group.~~ In applying the percentages for these exemptions, any fraction
18 ~~may be rounded to the next whole number.~~ Exercise of these exemptions shall
19 may be declared requested by the appointing authority as part of the layoff
20 plan submitted under s. ER-Pers 22.05.

21 (3) The remaining employees, plus those on an approved leave of absence,
22 in the layoff group, shall be ranked by seniority computed on the basis of
23 continuous ~~state~~ service as set forth in s. ~~ER-Pers 18.02 (2)~~ ER 18.02 (2) and
24 (3), with any resulting tied cases to be ranked, relative to each other,
25 according to their total continuous ~~state~~ service in ~~that class, approved class~~
26 ~~subtitle, or classification progression series~~ the approved layoff group. If,
27 after completing this ranking, a tie still exists between two or more employees
28 ~~after completing the above,~~ seniority, continuous service of the tied employees
29 shall be determined by age, with the oldest employee deemed to have the greatest

1 ~~seniority~~ continuous service. Employees shall be laid off according to their
2 ~~seniority~~ continuous service ranking, with the ~~lowest ranked, which means the~~
3 ~~least senior,~~ employe with the least continuous service laid off first.

4 (4) With the agreement of the appointing authority, ~~a more senior~~ an
5 employe with more continuous service in the layoff groups may volunteer to be
6 terminated from employment in lieu of the layoff of ~~a less senior~~ an employe
7 with less continuous service, with the guarantee that the appointing authority
8 will not challenge the ~~more senior~~ volunteering employe's eligibility for
9 unemployment compensation, unless the employe later refuses a reasonable offer
10 of reappointment.

11 SECTION 63. ER-Pers 22.08 (1)(a) 1. and 2., (1)(b) 3., (2)(intro.),
12 (2)(a), (2)(a) 1. to 3., (2)(b) 2., (3)(a) and (3)(c) are amended to read:

13 ER-Pers 22.08 (1)(a) 1. Within the employing unit~~+~~+, to any vacancy in the
14 same or counterpart pay range for which the employe is qualified to perform the
15 work after being given the customary orientation provided to newly hired
16 workers in the position; or

17 (1)(a) 2. Within the agency~~+~~+, to any vacancy in the ~~same class, class~~
18 ~~subtitle or progression series~~ approved layoff group from which the employe is
19 being laid off for which the employe is qualified to perform the work after
20 being given the customary orientation provided to ~~new~~ newly hired workers in
21 the position.

22 (1)(b) 3. An employe who transfers to a position in a different employing
23 unit of the same agency may be required to serve a probationary period in
24 accordance with s. 230.28 (1)(am) or (4), Stats., as applicable. During this
25 probationary period, the employe may be removed from the position without the
26 right of appeal and restored to his or her former position or transferred to a

1 different position. If the employee's former position has been abolished, ~~the~~
2 ~~employee shall be given consideration for any~~ and there is no other vacant
3 position in the agency in the same or counterpart pay range for which the
4 employe is qualified to perform the work after being given the customary
5 orientation provided for a newly hired ~~workers.~~ worker ~~If no such vacant~~
6 ~~position exists~~, the employe shall be treated as if he or she had been restored
7 to the previous position, and the provisions for making layoffs under this
8 chapter shall apply.

9 (2) DEMOTION AS A RESULT OF LAYOFF. (intro.) ~~(a) Within an agency.~~ If
10 no transfer under sub. (1) is available and if there is a vacancy available for
11 which the employe is qualified to perform the work after being given the
12 customary orientation provided to newly hired workers in such positions, in a
13 higher level position than could be obtained through displacement under sub.
14 (3), an appointing authority shall offer the employe a demotion to that
15 vacancy. This offer shall be subject to the criteria for a reasonable offer of
16 appointment under s. ER-Pers 22.09~~+~~ and the following:

17 (a) Within an agency. An employe may demote to a position in a lower
18 classification in the same agency in lieu of being terminated as a results of
19 layoff.

20 1. An employe demoted ~~as a result of layoff~~ under this sub. immediately
21 attains permanent status in class in the class to which the employe is demoted,
22 except that an employe demoted to a position in a different employing unit of
23 the same agency may be required to serve a probationary period in accordance
24 with s. 230.28 (1)(am) or (4), Stats., as applicable. During this probationary
25 period, the employe may be removed from the position without the right of
26 appeal and restored to his or her former position or transferred to a different
27 position. If the employee's former position has been abolished, the employe
28 shall be given consideration for any ~~vacant position~~ vacancy within the agency
29 in the same or counterpart pay range for which the employe is qualified to

1 perform the work after being given the customary orientation provided for newly
2 hired workers. If no such ~~vacant position~~ vacancy exists, the employe shall be
3 treated as if he or she has been restored to the previous position, and the
4 provisions for making layoffs under this chapter shall apply.

5 (2) ~~An~~ For pay provisions regarding an employe who is demoted by the
6 appointing authority, as a result of a layoff to the highest level vacancy
7 available for which the employe is qualified, ~~shall have his or her pay~~
8 ~~determined under~~ see s. ER-Pers 29.03 (8)(c) ER 29.03 (8)(c).

9 (3) For pay provisions regarding an employe who chooses, with the
10 approval of the appointing authority, to be demoted as a result of layoff to a
11 vacancy which is at a lower level than other available vacancies to which the
12 employe could be demoted, see s. ~~ER-Pers 29.03 (8)(b)~~ ER 29.03 (8)(f).

13 (2)(b) 2. An employe who demotes as a result of layoff between agencies
14 shall have his or her pay determined under s. ~~ER-Pers 29.03 (8)(b)~~
15 ER 29.03 (8)(f).

16 (3) DISPLACEMENT. (a) If there is no ~~vacancy~~ position obtainable under
17 subs. (1) and (2) at the same or higher level than any position obtainable
18 under this subsection, an employe may exercise a right of displacement within
19 the employing unit.

20 (3)(c) An employe who exercises displacement rights shall have his or her
21 pay determined under s. ~~ER-Pers 29.03 (8)(c)~~ ER 29.03 (8)(c).

22 SECTION 64. ER-Pers 22.10 (2) is amended to read:

23 ER-Pers 22.10 (2) RETURN TO THE AGENCY. When a vacancy occurs in the
24 agency in the ~~class, class subtitle or progression series~~ approved layoff group
25 from which the employe was terminated as a result of layoff, exercised
26 displacement rights, demoted as a result of layoff, or transferred or demoted
27 between agencies as a result of layoff and was terminated while on probation,

1 the employe shall be recalled in inverse order of layoff, providing the employe
2 is qualified to perform the work after being given the customary orientation
3 provided newly hired workers in such position, unless the employe previously
4 declined a similar offer. The order ~~of layoff~~ for the recall of an employe who
5 transferred or demoted between agencies as a result of layoff and was
6 terminated while on probation shall be determined on the basis of the effective
7 date of the layoff. An employe recalled to a different employing unit in the
8 agency may not be required to serve a probationary period.

9 NOTE: For pay of employes restored following layoff see s. ER 29.03 (7).

10 SECTION 65. ER-Pers 22.11 (1) and (2) are renumbered 22.11 (2) and (3).

11 SECTION 66. ER-Pers 22.11 (1) is created to read:

12 ER-Pers 22.11 REINSTATEMENT PRIVILEGES AND CONDITIONS. (1) When a
13 vacancy, for which the employe is qualified, occurs in another employing unit
14 of the agency in any class other than the approved layoff group from which the
15 employe was terminated:

16 (a) as a result of layoff;

17 (b) exercised displacement rights;

18 (c) demoted as a result of layoff; or

19 (d) transferred or demoted between agencies as a result of layoff; and was
20 terminated while on probation, the employe may be reinstated at the discretion
21 of the appointing authority within a 3-year period from the date of any of the
22 actions taken in this subsection as a result of being subject to layoff.

23 NOTE: For pay of employes upon reinstatement following layoff, see

24 s. ER 29.03 (6). For pay of employes upon reinstatement where a probationary

1 period is required, see s. ER 29.03 (2)(b).

2 SECTION 67. ER-Pers 22.13 (1) is amended to read:

3 ER-Pers 22.13 LAYOFF OF SCHOOL YEAR EMPLOYEES. (1) School year employes
4 whose services are not required during a summer recess are granted summer leave
5 under the provisions of s. ~~ER-Pers 18.05 (1)(e)~~ ER 18.14 (2)(c), and are not
6 considered to be in layoff status.

7 SECTION 68. ER-Pers 22.14 is amended to read:

8 ER-Pers 22.14 TEMPORARY LAYOFF OF EMPLOYEES. The administrator may
9 approve exceptions to the procedures outlined in this chapter for temporary
10 layoffs not to exceed 20 working days. Temporary layoffs ~~shall~~ may apply to
11 some, or all of the employes in an employing unit. ~~However, an~~ The appointing
12 authority may recommend, subject to approval of the administrator, ~~that a plan~~
13 for temporary layoffs apply to only some, stating the reason for the temporary
14 layoffs, the classes and number of employes affected in the employing unit. ~~If~~
15 ~~a temporary layoff of some employes is approved, it shall be by class and~~
16 ~~seniority with the least senior employes being temporarily laid off. The, and~~
17 the specific number of such days affected employes are will be laid off, as
18 ~~recommended by the appointing authority, is also subject to.~~ The plan shall be
19 submitted to the administrator for approval by the administrator prior to
20 implementation. Consecutive temporary layoffs in the same employing unit may
21 not be approved by the administrator for the same reason which caused the
22 initial temporary layoff, unless a plan for permanent layoff has been
23 submitted.

24 SECTION 69. ER-Pers 24.03 (intro.) is created to read:

1 ER-Pers 24.03 DEFINITIONS. (intro.) The following are definitions for
2 terms used in this chapter:

3 SECTION 70. ER-Pers 24.035 is amended to read:

4 ER-Pers 24.035 HOSPITALITY; RELATION TO STATE BUSINESS. Hospitality ~~is~~
5 ~~unrelated to state business if, after consideration of the circumstances, a~~
6 ~~reasonable person would conclude that it is probable that~~ may be accepted by
7 an employe when it could be concluded that the hospitality would be
8 extended if the guest or a member of the guest's immediate family was not a
9 state employe.

10 SECTION 71. ER-Pers 24.04 (intro.) is amended to read:

11 ER-Pers 24.04 STANDARDS OF CONDUCT. (intro.) This chapter shall not
12 prevent an employe from accepting outside employment or following a pursuit
13 which in no way interferes or conflicts with the full and faithful discharge of
14 his or her duties to this state, subject to the following:

15 SECTION 72. ER-Pers 24.04 (2)(b) 2. is amended to read:

16 ER-Pers 24.04 (2)(b) 2. ~~Fees~~ Acceptance of fees and honoraria paid for
17 papers, talks, demonstrations or appearances made by an employe on the
18 employe's own time and not directly part of the employe's official duties,
19 shall not be a violation of this chapter. Employes shall notify their
20 appointing authority prior to accepting fees and honoraria for papers, talks,
21 demonstrations, or appearances to insure no conflict of interest exists.

22 SECTION 73. ER-Pers 24.04 (2)(b) 3. is created to read:

1 ER-Pers 24.04 (2)(b) 3. When an employe is offered an unsolicited award
2 or reward for an exceptional accomplishment or outstanding performance other
3 than that specified in sub. (2)(a) 1., the administrator shall determine
4 whether or not it may be accepted by the employe after considering whether
5 acceptance of the award or reward would conflict with the purposes of this
6 chapter. Employes shall notify their appointing authority prior to accepting
7 unsolicited awards or rewards, who in turn shall request that the administrator
8 make a determination regarding acceptance or refusal of the award or reward.

9 SECTION 74. ER-Pers 24.04 (2)(e) is amended to read:

10 ER-Pers 24.04 (2)(e) ~~No~~ An employe shall may effectively recommend or
11 decide to hire or promote another person for a permanent, seasonal or sessional
12 position when the person affected is a member of the employe's immediate
13 family, ~~unless~~ if that person has been certified from an open or competitive
14 promotional ~~competitive~~ register. No employe may recommend or make a limited
15 term or project appointment when the person to be hired is a member of the
16 employe's immediate family.

17 SECTION 75. ER-Pers 27.01 to 27.04 are repealed and recreated to read:

18 ER-Pers 27.01 PURPOSE. This chapter, promulgated under s. 230.08 (7),
19 Stats., which authorizes the administrator to provide for exceptional methods
20 and kinds of employment, enables the state, as an employer, to carry out its
21 social, economic and community responsibilities through employment of
22 individuals who are economically disadvantaged or handicapped, or to meet the
23 needs of the service during periods of disaster or national emergency, or
24 to comply with special funding requirements for specific positions.

1 ER-Pers 27.02 DEFINITIONS. (intro.) The following are definitions for
2 terms used in this chapter:

3 (1) "Handicapped" means an individual under s. 111.32 (8), Stats., who:

4 (a) Has a physical or mental impairment which makes achievement unusually
5 difficult or limits the capacity to work;

6 (b) Has a record of such an impairment; or

7 (c) Is perceived as having such an impairment.

8 (2) "Disability" means the same as handicapped as defined in sub. (1).

9 (3) "Economically disadvantaged individual" means an individual whose
10 circumstances are such that the individual meets specific criteria for
11 participation in federal, state or local government programs available to the
12 unemployed, underemployed, or whose family income is at or below the poverty
13 level as determined by federal or state standards.

14 (4) "Exceptional employment situations" means employment opportunities in
15 agencies where:

16 (a) Vacancies have been set aside, as a part of an approved affirmative
17 action plan, to provide training and permanent employment to handicapped
18 individuals;

19 (b) Special statutory or funding requirements for specific positions
20 require applicants who meet established eligibility criteria; or

21 (c) The employment situations occur as a result of disaster or national
22 emergency.

23 (5) "Periods of disaster" or "periods of national emergency" mean periods
24 of time when, as a result of natural disasters, epidemics or war, existing
25 merit system techniques and procedures for recruitment and examination are
26 unable to provide an adequate number of eligible applicants to meet the needs
27 of the service.

28 ER-Pers 27.03 IDENTIFYING EXCEPTIONAL EMPLOYMENT SITUATIONS. (intro.)

29 The administrator may authorize use of exceptional methods of employment for

1 exceptional employment situations for any of the following reasons:

2 (1) An agency has set aside positions for employment opportunities to
3 provide training and permanent employment to severely handicapped individuals
4 and it has been determined that the examination method traditionally used to
5 examine for similar vacancies would measure the applicants' disability instead
6 of their ability, aptitude or skill, or whatever other factor the test purports
7 to measure.

8 (2) Special statutory or funding requirements for specific positions
9 require applicants to meet certain criteria such as:

10 (a) Being economically disadvantaged;

11 (b) Being welfare recipients;

12 (c) Being a disabled Vietnam era veteran; or

13 (d) Meeting any other eligibility criteria established for the particular
14 position.

15 (3) To meet the needs of the service during periods of disaster or
16 periods of national emergency.

17 ER-Pers 27.04 QUALIFYING FOR EXCEPTIONAL EMPLOYMENT SITUATIONS.

18 (intro.) When the administrator has determined that an exceptional employment
19 situation exists, recruitment may be targeted as follows:

20 (1) For appointment to exceptional employment situations for handicapped
21 individuals, applicants must be certified as severely handicapped by
22 appropriate specialists such as a physician, psychiatrist, psychologist,
23 chiropractor, teachers or counselors specialized in learning disabilities or
24 special education, vocational rehabilitation counselor, occupational or
25 physical therapist or other specialist deemed appropriate by the administrator,
26 and must require on-the-job training beyond that normally provided during the
27 probationary period for similar positions.

28 (2) For appointment to exceptional employment situations under
29 s. ER-Pers 27.02 (4)(b), applicants must meet the eligibility criteria for the

1 position as set forth in s. ER-Pers 27.03 (2).

2 (3) For appointment to exceptional employment situations under
3 s. ER-Pers 27.02 (4)(c), applicants must meet the minimum qualification
4 requirements established by the administrator under this chapter.

5 SECTION 76. ER-Pers 27.05 to 27.07 are created to read:

6 ER-Pers 27.05 USE OF EXCEPTIONAL METHODS OF EMPLOYMENT AND EXCEPTIONAL
7 EMPLOYMENT LISTS. (intro.) Upon written request of an appointing authority,
8 the administrator may authorize use of exceptional methods of employment to
9 fill positions identified as exceptional employment situations. In considering
10 such requests, the administrator shall determine whether the following criteria
11 have been met:

12 (1) FOR EMPLOYMENT OF HANDICAPPED INDIVIDUALS. For employment of
13 handicapped individuals, the administrator shall determine whether:

14 (a) Appropriate position description modifications have been made and
15 essential qualifications for the positions have been defined.

16 (b) Special provisions for on-the-job training, including consideration
17 of length of training, reasonable accommodations, supervision and safety have
18 been developed, subject to modification at the time of appointment to meet the
19 specific employment and training needs of the individual hired for the
20 position.

21 (c) An appropriate probationary period length has been established.

22 (d) The position is permanent, or, if not, the person shall be appointed
23 to a permanent position upon satisfactory completion of the training period.

24 (2) FOR EMPLOYMENT OF THE ECONOMICALLY DISADVANTAGED. For employment of
25 the economically disadvantaged, any special statutory or funding requirements
26 specifying that applicants meet established eligibility criteria have been
27 identified.

1 (3) DURING PERIODS OF DISASTER OR NATIONAL EMERGENCY. During periods of
2 disaster or national emergency, a critical shortage of qualified applicants in
3 the labor supply occurs and existing merit system techniques and procedures for
4 recruitment and examination do not provide an adequate number of eligible
5 applicants to meet the needs of the service.

6 ER-Pers 27.06 EXCEPTIONAL EMPLOYMENT LIST ESTABLISHMENT. (intro.) The
7 administrator may authorize establishment of exceptional employment eligibility
8 lists to enable agencies to hire individuals for exceptional employment
9 situation vacancies. In establishing the lists the administrator shall employ
10 merit system principles which are comparable to those which are used in
11 establishing standard eligibility lists for the same classification and may use
12 one or more of the following methods or processes:

13 (1) Limitation of recruitment to a specific applicant target group;

14 (2) Grouping of applicants based on their qualifications and
15 certification of qualified applicants from these groups;

16 (3) Creation of an exceptional employment list from a standard employment
17 list;

18 (4) Examination waivers; and

19 (5) Seeking the creation of emergency classifications and suitable salary
20 ranges for the classifications, which may be entirely new classes or the
21 counterpart of existing classes except for qualification requirements.

22 Emergency classifications created and positions filled under this subsection
23 shall be abolished six months after the condition of disaster or emergency
24 ceases to exist. The examination methods to be used in these emergency
25 situations may include traditional testing instruments or one or more of the
26 following: evaluations of training, experience or general qualifications. The
27 testing method may be either competitive or noncompetitive in whole or in
28 part.

1 ER-Pers 27.07 APPOINTEE STATUS. Persons appointed from an exceptional
2 employment eligibility list to an exceptional employment vacancy in the
3 classified service shall become employees with permanent status in class after
4 successful completion of a probationary period as provided in s. 230.28.,
5 Stats., and ch. ER-Pers 13, except that appointments made as a result of the
6 creation of emergency classifications shall be considered as serving a
7 probationary period during their entire appointment and shall not acquire
8 permanent status in class. Employees appointed as a result of the creation of
9 emergency classifications shall be laid off no later than six months after the
10 condition which prompted the use of the exceptional employment method has
11 ceased to exist.

12 SECTION 76M. ER-Pers 30.01 (3) is amended to read:

13 ER-Pers 30.01 (3) On ~~transactional~~ initial appointment to or voluntary
14 movement into a career executive position, the employe becomes a career
15 executive.

16 ("NOTE" to be inserted after ER-Pers 30.085.)

17 NOTE: For pay adjustments resulting from career executive reassignment or
18 voluntary movement see s. ER 30.04.

19 SECTION 77. ER-Pers 30.105 (2)(b) is amended to read:

20 ER-Pers 30.105 (2)(b) They are performing work which the employe who has
21 been occupying the abolished position would be qualified to perform after being
22 given the customary orientation provided to newly hired workers in such
23 positions.

1 SECTION 78. ER-Pers 30.99 (1) is amended to read:

2 ER-Pers 30.99 INCUMBENTS OF POSITIONS PLACED IN THE CAREER EXECUTIVE
3 PROGRAM. (1) Each incumbent shall be given the option of being placed in the
4 career executive program without certification, in accordance with s. ER-Pers
5 30.05, or of remaining in his or her existing position under the noncareer
6 executive employment provisions. This option shall remain in effect for one
7 year after the incumbent's position is placed in the program. ~~Should the~~
8 ~~employee choose the second option, his or her existing position shall not be~~
9 ~~included in the career executive program as long as it is occupied by the~~
10 ~~incumbent.~~ Any subsequent entrance by the employee to the program shall require
11 ~~competitive appointment~~ voluntary movement to a different career executive
12 position under the provisions of s. ~~ER-Pers 30.05~~ ER-Pers 30.01 (3) and other
13 applicable provisions.

14 SECTION 79. ER-Pers 32.04 is amended to read:

15 ER-Pers 32.04 LETTER OF NOTIFICATION. The appointing authority shall
16 give written notice to ~~both~~ the employe ~~and the administrator~~ of the acting
17 assignment. This letter of notification shall identify the nature of the
18 duties to be assigned, the planned duration and other conditions of the acting
19 assignment, including the fact that no adjustment in pay shall be made. The
20 appointing authority shall send a copy of the notice of the acting assignment
21 to the administrator.

22 SECTION 80. ER-Pers 34.01 (1) is repealed.

23 SECTION 81. ER-Pers 34.01 (2) is renumbered 34.01.

1 SECTION 82. ER-Pers 34.01 (title) is created to read:

2 ER-Pers 34.01 DURATION OF PROJECT APPOINTMENT.

3 SECTION 83. ER-Pers 34.02 and 34.03 are amended to read:

4 ER-Pers 34.02 EXCLUSIONS. The provisions of this chapter do not apply to
5 the permanent appointment of a person to a project position. "Permanent
6 appointment" means the appointment of a person to a classified position in
7 which permanent status can be attained.

8 ER-Pers 34.03 USE OF PROJECT APPOINTMENTS. ~~s. 230.27 (2), Stats.~~ (1) A
9 project position may be filled on a project appointment basis only ~~after~~
10 ~~approval~~ if approved by the administrator. ~~Project appointments shall be made~~
11 ~~so as to contribute to a competent and balanced work force.~~ In evaluating
12 requests to make project appointments, the administrator shall consider:

13 (a) The duration of the proposed project appointment.

14 (b) The availability of qualified candidates already on a register for
15 the classification or related classifications.

16 (c) The availability of qualified potential applicants in the state labor
17 market.

18 (d) The similarity of work to be performed by the project position to
19 regular functions of the employing agency.

20 (e) The economic and time limitations associated with initiating and
21 completing the project.

22 (f) Such other factors as deemed appropriate by the administrator.

23 ~~(2) An appointing authority may grant a leave of absence of not more than~~
24 ~~4 years to a subordinate employe in a permanent, seasonal or sessional position~~
25 ~~who voluntarily accepts a project appointment.~~ An appointing authority may not
26 involuntarily appoint an employe in a permanent, seasonal or sessional position
27 to a project position on a project appointment basis.

1 NOTE: Position classification actions for project positions shall be made
2 in accordance with chs. ER 2 and 3.

3 NOTE: For pay provisions applicable to project employes see ch. ER 29,
4 and the state compensation plan for non-represented employes.

5 SECTION 84. ER-Pers 34.07 (3) and (4) are renumbered 34.07 (1) and (2).

6 SECTION 85. ER-Pers 34.09 (1) is repealed.

7 SECTION 86. ER-Pers 34.09 (2) is renumbered 34.09 and amended to read:

8 ER-Pers 34.09 PROCEDURES AND RECORDS. In order to safeguard the public
9 interest, ~~modified~~ recruitment and selection procedures for project
10 appointments ~~must~~ shall be approved by the administrator, and the appointing
11 authority shall maintain ~~such~~ records of the procedures followed in making
12 project appointments ~~as are determined to be necessary by the administrator.~~

13 SECTION 87. ER-Pers 34.10 is created to read:

14 ER-Pers 34.10 VIOLATIONS. If the administrator finds that an agency has
15 failed to comply with project appointment standards established under this
16 chapter, the administrator may remove the incumbents of positions for which
17 appointment standards were not followed. Employes subject to removal under
18 this section shall be given notice and an opportunity to be heard. The
19 administrator may also withdraw all delegated authority for making project
20 appointments from the agency until such time as, in the judgment of the
21 administrator, the agency takes appropriate measures to ensure that future
22 project appointments will be in compliance with established standards.

1 EFFECTIVE DATE. The rules contained in this order shall take effect on the
2 first day of the month following publication as provided under s. 227.22
3 (2)(intro.), Stats.

Dated this 29th day of April, 1988.



DANIEL H. WALLOCK
ADMINISTRATOR

RECEIVED


MAR 29 1988

Revisor of Statutes
Bureau

March 28, 1988

CORRESPONDENCE/MEMORANDUM-----STATE OF WISCONSIN

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Daniel Wallock, Administrator 
Division of Merit Recruitment and Selection

SUBJECT: SECTION 3R of CLEARINGHOUSE RULE 86-161

The problem with the treatment wording of SECTION 3R, on line 22 of page 9 and 1 to 3 on page 10 of the Rulemaking Order has been brought to my attention by Alan Klitzkie.

Please delete that treatment material and substitute the following:

"SECTION 3R. ER-Pers 1.02 (7) (a) to (e) and (8) to (13m) are renumbered 1.02 (21), (31), (14), (32), (26), (15), (16), (18), (20), (22), (23) and (25), and ER-Pers 1.02 (14), (21), (26), (31) and (32), as renumbered, are amended to read:"

(The amended subsections beginning with the second line 3 through line 27 on page 10 and lines 1 and 2 on page 11 are correctly numbered in the Rulemaking Order.)

Please let us know if you need additional information.

DHW/AGK/sw
sw287.ak

cc: Alan Klitzkie

CORRESPONDENCE/MEMORANDUM

RECEIVED

Date: March 14, 1988

File Ref:

MAR 15 1988

To: Gary Poulson, Assistant Revisor of Statutes

Revisor of Statutes
Bureau

From: Alan G. Klitzkie, *AGKlitzkie*
Department of Employment Relations

Subject: Clearinghouse Rule 86-162 -- Treatment of ER-Pers 18.03
(1) (b).

This is to confirm our discussion of ER-Pers 18.03 (1) (b) and its treatment under Clearinghouse Rule 86-162.

Section 102 on page 81 of the Rule Making Order that repeals ER-Pers 18.03 (1) (b) is the intended treatment of that provision. This was a change from earlier drafts, and when it was made, the treatment language of Section 101 that appears on page 80 of the rule making order was inadvertently not changed to delete the renumbering treatment of ER-Pers 18.03 (1) (b).

The repeal was made because offices and positions in the organized militia are not included under the definition of "civil service" under s. 230.03 (6), Stats.

If you have questions or need further information, please call me at 6-1254.

AGK/sw
sw282.ak

cc: John M. Tries
Jean Whitcomb
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