

## CHAPTER 16

## DEPARTMENT OF ADMINISTRATION

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## SUBCHAPTER I

## GENERAL ADMINISTRATION

**16.001 Organization of department.** (1) **PURPOSES.** The purposes of this chapter are to conserve the state's resources by co-ordinating management services and providing effective aid to agencies of the state government; to present clearly defined alternatives and objectives of state programs and policies so that the state's agencies, the governor and the legislature may plan co-operatively and finance the services which the state will provide for its citizens; to help the state's agencies furnish the agreed upon services as efficiently and effectively as possible, avoiding any duplication of effort or waste of money; to assure the legislature and the governor that the services are being provided to the public at the agreed upon quantity, quality and cost; and to anticipate and resolve administrative and financial problems faced by the agencies, governor and legislature of the state.

(2) **LIBERAL CONSTRUCTION OF STATUTES.** Statutes applicable to the department of administration shall be construed liberally in aid of the purposes declared in sub. (1).

**16.002 Definitions.** In this chapter:

(1) "Department" means the department of administration.

(2) "Secretary" means the secretary of administration.

(3) "Board" means the personnel board.

(4) "Departments" means constitutional offices, departments and independent agencies and includes all societies, associations and other agencies of state government for which appropriations are made by law.

**16.003 Department of administration.** (1) **PURPOSE.** The department shall carry out the purposes of this chapter by improving the techniques used for such management specialties, not limited by enumeration, as budgeting, accounting, engineering, purchasing and personnel and records management; by coordinating and providing services which are used by more than one agency, and by reviewing agencies' programs and management to identify problems and suggest improvements.

(2) **STAFF.** The secretary shall appoint, under the classified service, the staff necessary for performing the duties of the department. When a vacancy occurs in the position of director of the bureau of personnel the personnel board shall prepare and conduct an examination for the position in the manner usually followed and prescribed by subch. II for all other positions,

and the governor shall make the appointment under the classified service.

History: 1971 c. 270.

**16.004 Secretary, powers and duties.** (1) **RULES.** The secretary shall establish rules for administering the department and performing the duties assigned to it, subject to the rules established under subch. II.

(2) **INFORMATION; REPORTS; RECOMMENDATIONS.** The secretary shall furnish all information requested by the governor or by any member of the legislature. The secretary shall report to the governor and the board on government operations by July 15 of each year recommendations and legislative proposals which will improve the administration of the state's agencies, which shall be a public document.

(3) **INVESTIGATIONS AND HEARINGS.** (a) The department, when directed by the governor, shall investigate any irregularities, and all phases of operating cost and functions, of executive or administrative departments so as to determine the feasibility of consolidating, creating or rearranging departments for the purpose of effecting the elimination of unnecessary state functions, avoiding duplication, reducing the cost of administration and increasing efficiency.

(b) The secretary may hold either public or private hearings to inform himself of any matters relating to his functions and for that purpose shall be clothed with the powers relating to witnesses given by s. 885.01 (4) and s. 885.12 shall apply.

(4) **FREEDOM OF ACCESS.** The secretary and such employes of the department as he designates may enter into departments and examine their books and accounts and any other matter which in the secretary's judgment should be examined and may interrogate the department's employes publicly or privately relative thereto.

(5) **DEPARTMENTS AND EMPLOYES TO COOPERATE.** All departments, and their officers and employes, shall cooperate with the secretary and shall comply with his every request relating to his functions.

(6) **MANAGEMENT AUDITS.** The secretary shall periodically make management audits of departments of the state, utilizing teams of specialists in the fields of purchasing, personnel, accounting, budgeting, space utilization, forms design and control, records management, and any other specialties necessary to effectively appraise all management practices, operating procedures and organizational structures.

(7) **CIVIL SERVICE INFORMATION SYSTEM.** The secretary shall establish and maintain a management information system which shall be used to furnish the governor and the legislature

with current information pertaining to authorized positions, payroll and related items covering civil service employees.

History: 1971 c. 270; 1973 c. 333

**16.007 Claims board.** (1) **PURPOSE.** The claims board shall receive, investigate and make recommendations on all claims presented against the state which are filed pursuant to s. 16.53 (8). No claim or bill relating to such a claim shall be considered by the legislature until a recommendation thereon has been made by the claims board.

(2) **RULES.** The board shall not be bound by common law or statutory rules of evidence, but shall admit all testimony having reasonable probative value, excluding that which is immaterial, irrelevant or unduly repetitious. It may take official notice of any generally recognized fact or established technical or scientific fact, but parties shall be notified either before or during hearing or by full reference in preliminary reports, or otherwise, of the facts so noticed, and the parties shall be afforded an opportunity to contest the validity of the official notice.

(3) **PROCEDURE.** When a claim has been referred to the claims board, it shall schedule such claim for hearing, giving the claimant at least 10 days' written notice of the date, time and place thereof. The board shall keep a record of its proceedings, but such proceedings may be recorded by a permanent recording device without transcription. It may require sworn testimony and may summon and compel attendance of witnesses and the production of documents and records. Any member of the board may sign and issue a subpoena.

(4) **DEPARTMENTS TO COOPERATE.** The several departments shall cooperate with the board and shall make their personnel and records available upon request when such request is not inconsistent with other statutes.

(5) **FINDINGS.** The board shall report its findings and recommendations, on all claims referred to it, to the legislature for action. If from its findings of fact the board concludes that any such claim is one on which the state is legally liable, or one which involves the causal negligence of any officer, agent or employe of the state, or one which on equitable principles the state should in good conscience assume and pay, it shall cause a bill to be drafted covering its recommendations and shall report its findings and conclusions and submit the drafted bill to the joint committee on finance at the earliest available time. A copy of its findings and conclusions shall be submitted to the claimant within 10 days after the board makes its determination.

(6) **SETTLEMENT.** Whenever the claims board by unanimous vote finds that payment of less than \$500 to a claimant is justified, it may order the amount so found to be justified paid on its own motion without submission of the claim in bill form to the legislature. Such amounts shall be paid upon the certification of the chairman and secretary of the board from the appropriation made by s. 20.505 (3) (a), (g) or (q).

(7) **EXCEPTION.** This section shall not be construed as relieving any 3rd party liability or releasing any joint tort-feasor.

(8) **EXPENSES.** The board may pay the actual and necessary expenses of employes of the department of justice or the department of administration authorized by the board to secure material information necessary to the disposition of a claim.

## SUBCHAPTER II

### CIVIL SERVICE

**16.01 Statement of policy.** (1) It is the purpose of this subchapter to provide state agencies and institutions of higher education with competent personnel which will furnish state services to its citizens as fairly, efficiently and effectively as possible.

(2) It is the policy of the state to maintain a strong coordinated personnel management program and to assure that positions in the classified service are filled through methods which apply the merit principle, with adequate civil service safeguards. To these ends the bureau of personnel with advice and quasi-judicial assistance by the personnel board shall develop, improve and protect a state-wide personnel management program which assures that the state hires the best qualified persons available and bases the treatment of its employes upon the relative value of each employe's services and his demonstrated competence and fitness.

(3) Nothing in this subchapter shall be construed to either infringe upon or supersede the rights guaranteed state employes under subch. V of ch. 111.

History: 1971 c. 270.

**16.02 Definitions.** In this subchapter, unless the context otherwise requires:

(1) "Appointing authority" means any officer, commission, board or body having the power of appointment to or removal from subordinate positions in any department, state agency or institution.

(2) "Civil service" means all offices and positions of trust or employment in the service of the state, except offices and positions in the organized militia.

(3) "Bureau" means the bureau of personnel in the department of administration.

(4) "Board" means the personnel board.

(5) "Department" or "agency" means any officer whose office is created by constitution or statute, or any agency so created, except legislative and judicial officers, and offices and agencies created within departments as herein defined.

(6) "Director" means the director of the bureau of personnel in the department of administration.

(7) "Wisconsin resident" means a person who:

(a) Is eligible to register to vote in Wisconsin; or

(b) Has resided within the state at least one year out of the immediately preceding 3 years; or

(c) Has resided within the state for a total of 5 years; or

(d) Is the spouse of a person meeting the requirements of par. (a), (b) or (c).

(8) "Collective bargaining agreement", "collective bargaining unit" and other terms relating to collective bargaining for state employes have the meaning set forth for such terms under subch. V of ch. 111.

(9) "Position" means a group of duties and responsibilities in either the classified or the unclassified divisions of the civil service, which require the services of an employe on a part-time or full-time basis.

History: 1971 c. 270; 1973 c. 333

### 16.03 Powers and duties of the director.

(1) The director is charged with the effective administration of this subchapter. All powers and duties, necessary to that end, which are not exclusively vested by statute in the personnel board or appointing authorities, are reserved to the director.

(2) The director may delegate, in writing, any of his ministerial functions set forth in this subchapter to a department head, within prescribed standards when he finds such agency has personnel management capabilities to perform such functions effectively and has indicated its approval and willingness to accept such responsibility by written agreement. Whenever the director determines that any department is not performing such delegated function within prescribed standards, he shall forthwith withdraw such delegation and assume responsibility for such function. Any delegatory action taken hereunder by any department head may be appealed to the personnel board under s. 16.05.

(3) The director may utilize the services of technical or specialized personnel to assist him in implementing and maintaining a sound personnel management program. These services may

be obtained from persons within or without state service.

(4) (a) The director or his designated representative shall hear appeals of employes from personnel decisions made by appointing authorities when such decisions are alleged to be illegal or an abuse of discretion and such decisions are not subjects for consideration under the grievance procedure, collective bargaining or hearing by the board.

(b) The director, in connection with appeals or investigations conducted by him may administer oaths, take testimony and examine such public records as are required. All officers and other persons under civil service shall attend and testify when requested to do so by the director.

(c) Any person not under the civil service who appears before the director by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in courts of record, which shall be audited and paid upon presentation of proper vouchers; but no witness subpoenaed at the insistence of parties other than the director shall be entitled to compensation from the state for attendance or travel, unless the director certifies that his testimony was relevant and material to the matter investigated.

(d) The director shall not grant an appeal under this subsection unless he receives a written request therefor within 15 days after the effective date of the decision, or within 15 days after the appellant is notified of such decision, whichever is later. Within 45 days after the receipt of such request, the director shall hold a hearing thereon and shall either affirm or reject the action of the appointing authority. The hearing shall be open to the public except that the director may hold a closed hearing at the request of the appellant, if the request therefor is received no later than the request for a hearing.

(e) No action of an appointing authority relating to appointments shall be upset unless the action is appealed within 6 months after the effective date of the action. This limitation shall not apply when there is fraud or gross irregularity on the part of the appointing authority.

(5) The director may issue enforceable orders on all matters relating to the administration, enforcement and effect of this subchapter and the rules prescribed thereunder. Any action brought against the appointing authority for failure to comply with the order of the director shall be brought and served within 60 days after the date on which the director's order was issued. Such orders may be appealed to the board.

(6) The director shall promulgate rules for the effective operation of this subchapter. Such rules, except for emergency rules, shall be

subject to approval by the board. Notice of the contents of such rules and any modifications thereof shall be given to appointing authorities affected thereby, and such rules and modifications shall also be printed for public distribution.

History: 1971 c. 125, 270.

#### 16.04 Duties of appointing authorities.

(1) Each appointing authority shall:

(a) Conform to, comply with, and aid in all proper ways in carrying into effect this subchapter and the rules prescribed thereunder.

(b) Appoint persons to the classified service, designate their titles, assign their duties and fix their compensation, all subject to this subchapter and the rules of the director.

(c) Provide the director with current information relative to the assignment of duties to permanent classified positions in his department.

(d) Report promptly to the director such information as the director requires in connection with any delegated personnel function and with each appointment, promotion, demotion, suspension or separation from the service or other change in employe status.

(e) When requested by the director, provide reports on employe work performance and any other records or information the director requires to carry out this subchapter.

(f) Provide the director with the civil service information required under s. 16.004 (7).

(2) All reports and records submitted under sub. (1) shall be prepared and presented at such times and in such manner as the director prescribes.

History: 1971 c. 270; 1973 c. 333.

**16.05 Duties of personnel board.** (1) The board shall:

(a) Adopt rules necessary to carry out this section. Notice of the contents of such rules and amendments thereto shall be given promptly to appointing authorities affected thereby.

(b) Participate in public hearings held by the director in the rule-making process.

(c) Review and approve proposed rules and amendments to rules of the director. All such rules and amendments, upon approval by the board, shall be submitted to the governor subject to his approval before taking effect, but if he does not disapprove within 10 days after receipt thereof, such rules and amendments shall become effective as though approved.

(d) Keep minutes of its own proceedings and other official actions. All such records shall, subject to reasonable regulations, be open to public inspection.

(e) Hear appeals of employes with permanent status in class, from decisions of appointing authorities when such decisions relate to

demotions, layoffs, suspensions or discharges but only when it is alleged that such decision was not based on just cause. After the hearing, the board shall either sustain the action of the appointing authority or shall reinstate the employe fully. Any action brought against an appointing authority by an employe for failure to comply with the order of the board shall be brought and served within 60 days after the date of the board's finding.

(f) Hear appeals of interested parties and of appointing authorities from actions and decisions of the director. After such hearing, the board shall either affirm or reject the action of the director and, in the event of rejection, may issue an enforceable order to remand the matter to the director for action in accordance with the board's decisions. Any action brought against the director for failure to comply with the order of the board shall be brought and served within 60 days after the date of the board's finding.

(g) Hear appeals, when authorized under county merit system rules under s. 49.50, from any interested party.

(h) Review and act on decisions of impartial hearing officers under s. 111.91 (3).

(2) The board shall not grant an appeal under sub. (1) (e) or (f) unless a written request therefor is received by the board within 15 days after the effective date of the decision, or within 15 days after the appellant is notified of such decision, whichever is later. Within 45 days after the receipt of such request the board shall hold a hearing thereon. The hearing shall be open to the public except that the board may hold a closed hearing at the request of the appellant, if the request therefor is received no later than the request for hearing. No action of the director relating to appointments or examinations shall be upset unless the action is appealed or a request for an investigation is received, within 6 months, after the effective date of the action. This limitation shall not apply when there is fraud or gross irregularity on the part of the director.

(3) Any matter to be investigated or required to be heard by the board may be assigned to one or more members of the board by the chairman for investigation or hearing and shall be reported to the full board for determination. Hearings shall be conducted in accordance with the rules of practice and procedure prescribed by the board. Each member of the board may administer oaths and take testimony. The board may examine such public records as it requires in relation to any matter which it has authority to investigate. All state officers and employes shall attend and testify when requested to do so by the board.

(4) The board may make investigations and hold hearings on its own motion or at the request

of interested persons and issue recommendations concerning all matters touching the enforcement and effect of this subchapter and rules prescribed thereunder. If the results of an investigation disclose that the director, appointing authority or any other person acted illegally or to circumvent the intent and spirit of the law the board may issue an enforceable order to remand the action to the director or appointing authority for appropriate action within the law. Any action brought against the director or appointing authority for failure to comply with the order of the board shall be brought and served within 60 days after the date of the board's findings.

(5) Any person who appears before the board by order shall receive the fees and mileage provided for witnesses in civil actions in courts of record for his attendance, which shall be audited and paid upon presentation of proper vouchers; but no witnesses subpoenaed at the insistence of parties other than the board shall be entitled to compensation from the state for attendance or travel, unless the board certifies that his testimony was relevant and material to the matter investigated.

(6) The board may act in an advisory capacity to the director.

(7) The board may be designated as the final step in a state grievance procedure.

History: 1971 c 270.

The board is required to make findings of fact which it believes are proven to a reasonable certainty, by the greater weight of the credible evidence. On appeal, the court is to apply the substantial evidence test. *Berkan v Personnel Bd*, 61 W (2d) 644, 213 NW (2d) 354.

**16.06 Contractual services.** The department or its agents may contract for personal services which can be performed more economically or efficiently by such contract.

**16.07 Classification.** (1) The director shall ascertain and record the duties, responsibilities and authorities of, and establish grade levels and classifications for, all positions in the classified service subject to the approval of the board. He shall use job evaluation methods which in his judgment are appropriate to the class or occupational groups. Each classification so established shall include positions which are substantially similar in respect to authority, responsibility and nature of work required. In addition, each class shall:

(a) Require substantially similar qualifications; but, whenever necessary for recruitment, examination and certification purposes, a class may be further identified as to options and their related requirements in education, experience, capacity, knowledge and skill so that the same or equivalent tests of fitness may be used for

selecting the best qualified applicants for the class or option.

(b) Be designated by the same official generic title. The official titles of classes so established shall be used in all reports and payrolls and in all estimates requesting the appropriation of money to pay employees.

(c) Be so constituted that the same evaluated grade level within a pay schedule can be applied to all positions in the class under similar working conditions.

(d) Where practical, be included in a series to provide probable lines of progression.

(2) After consultation with the appointing authorities, the director shall allocate each position in the classified service to an appropriate class on the basis of its duties, authority, responsibilities or other factors recognized in the job evaluation process. He shall likewise reclassify or reallocate positions on the same basis whenever he finds such action warranted.

(a) The director shall maintain and improve the classification plan to meet the needs of the service, using methods and techniques which may include personnel management surveys, individual position reviews, occupational group classification surveys, or other appropriate methods of position review. Such reviews may be initiated by the director after taking into consideration the recommendations of the appointing authority, or at his own discretion. The director shall establish, modify or abolish classifications as the needs of the service require, and subject to the approval of the board.

(b) To accommodate and effectuate the continuing changes in the classification plan as a result of the classification survey program and otherwise, the director with approval of the board shall, upon initial establishment of a classification, assign that class to the appropriate pay rate or range, and upon subsequent review, the director with approval of the board may reassign classes to different pay rates or ranges. The director shall give notice to appointing authorities to elicit their recommendations prior to final action being taken on any such assignment or reassignment of classes.

(c) When anticipated changes in program or organization will significantly affect the assignment of duties or responsibilities to positions, the appointing authority shall, whenever practicable, confer with the director within a reasonable time prior to the reorganization or changes in program to formulate methods to fill positions which are newly established or modified to the extent that reclassification of the position is appropriate. In all cases, appointing authorities shall give written notice to the director and employe of changes in the assignment of duties or responsibilities to a

position when such changes in assignment may affect the classification of the position.

(d) If after review of a filled position the director reclassifies or reallocates the position, he shall determine whether the incumbent shall be regraded or whether the position shall be opened to other applicants.

(e) When an appointment is made to a position at an approved grade level lower than that recognized for the position, the incumbent of such position, after obtaining eligibility for progression, may be regraded, only upon recommendation of his appointing authority, subject to the statutes, classification plan, and rules of the director.

(f) If a position in the classified service is reclassified or reallocated, or if a position is allocated from the unclassified service to a classification in the classified service having a lower pay rate or pay range maximum than the incumbent's current basic pay rate, the pay rate of the incumbent while employed in such position shall be adjusted in accordance with rules of the director.

History: 1971 c. 270 ss. 16, 26.

**16.08 Classification of civil service.** (1) CLASSES. The civil service is divided into the unclassified service and the classified service.

(2) UNCLASSIFIED SERVICE. The unclassified service comprises positions held by:

(a) All state officers elected by the people.

(b) All officers and employes appointed by the governor whether subject to confirmation or not, unless otherwise provided.

(c) The director, associate director, assistant director, librarian of the historical society library, state archivist and director of research of the historical society; and, with the approval of the board of curators and the director of personnel, such number of specialists as are required by the society for specific research, writing, collecting or editing projects which for a limited period of time not to exceed 2 years, renewable at the discretion of the board of curators and the director of personnel for an additional 2-year period, require persons with particular training or experience in a specialized phase or field of history, historical research, writing, collecting or editing, and any persons whose entire salary is paid from funds reappropriated to the society by s. 20.245 (1) (g) where competitive examination is impractical.

(d) All faculty and academic staff, as defined in s. 36.05 (1) and (8), in the university of Wisconsin system.

(e) All other officers and employes of the state whose positions are expressly excluded from the classified service by statute or whose positions cannot be placed under the classified

service because of the restrictions placed on them by statute.

(f) All legislative officers and, in addition, such policy research personnel, assistants to legislative leaders, and research staff assigned to legislative committees and party caucuses as each house of the legislature by resolution approves.

(fm) The director and personnel of the legislative fiscal bureau.

(g) One deputy or assistant and one stenographer of each elective constitutional officer.

(h) The clerks and other assistants and employes and justices of the supreme court.

(j) Boys and girls employed in the youth camps created under s. 23.09 (23).

(3) CLASSIFIED SERVICE. (a) The classified service comprises all positions not included in the unclassified service.

(b) Employes holding permanent or sessional classified service positions in the legislative branch shall have the same legal status as employes holding permanent classified service positions in the administrative branch.

(d) Positions in the classified service shall be designated by the director as permanent, seasonal, sessional or limited term.

(e) School-year positions in the classified service shall be designated as permanent positions.

(7) EXCEPTIONAL EMPLOYMENT SITUATIONS. The director shall provide, by rule, for exceptional methods and kinds of employment to meet the needs of the service during periods of disaster or national emergency, and for other exceptional employment situations such as to employ the mentally handicapped, the physically handicapped and the disadvantaged.

(8) AUDITING OF PAYROLLS. The director shall audit the payrolls of the classified and unclassified service, as necessary, to carry out this subchapter.

History: 1971 c. 40, 270; 1973 c. 333, 335.

**16.084 Compensation plan coverage.** (1) Except as provided under sub. (2), the compensation plan provisions of ss. 16.085 and 16.086 apply to all employes of the classified service, unless they are covered by a collective bargaining agreement under subch. V of ch. 111.

(2) The compensation plan in effect on April 30, 1972, or at the time that a collective bargaining unit is certified, whichever is later, shall constitute the compensation plan for employes in said certified unit until a collective bargaining agreement becomes effective for that unit.

History: 1971 c. 270.

**16.085 Cost of living adjustments.** In a rapidly changing economy it has been found necessary to adjust salaries in accordance with changes in consumer prices. Such adjustments shall be derived as follows:

(1) The revised consumer price index, all items, all cities combined, established by the bureau of labor statistics of the U. S. department of labor, as printed in the monthly labor review or as otherwise released, shall be used for computing increases or decreases in the salary.

(2) The base salary rates and ranges shall be adjusted upward or downward on the date prescribed under s. 16.086 (8) of each year in the amount of \$1 for each 0.6 points of change between the cost of living index on April 15 of that year and April 15, 1961.

(3) Such cost of living adjustment shall not be deemed or construed to constitute a change in classification, rank, promotion or compensation and the civil service status of such employe shall be determined without reference thereto.

(4) All employes employed on a part-time basis shall be paid such portion of the cost of living adjustment as their actual time employed bears to full-time employment.

(5) Each department head or officer shall certify to the department of administration, at such time and in such manner as the department of administration prescribes, the sum of money needed for the cost of living adjustment. Upon receipt of said certifications together with such additional information as may be required, the secretary of administration shall supplement, at such times and in such amounts as he determines, the respective appropriations from the appropriation provided in s. 20.865 (1) (c).

History: 1971 c. 270 s. 33.

**16.086 Compensation.** (1) **COMPENSATION PLAN.** (a) *General provisions.* The compensation plan is the listing of the dollar values of the pay rates and ranges and the within range pay steps of the separate pay schedules to which the classes and grade levels for positions in the classified service established under the classification plan are assigned. In addition, the compensation plan may, when applicable, include provisions for supplemental pay and pay adjustments, and other provisions required to implement the plan or amendments thereto. Provisions for administration of the compensation plan and salary transactions shall be provided in the rules of the director.

(am) *Length of service pay.* As a reward for long and faithful service, department heads shall grant length of service pay to eligible employes in the classified service, except employes paid on a prevailing rate and employes on part-time (which is less than half time, on a daily, weekly

or monthly basis), short-term, project and student employments. Such length of service pay shall first be paid in December 1969 to employes eligible therefor, as determined by rule, and shall be paid in December of each year on a date determined by the director in addition to other compensation to employes eligible therefor, except that for eligible employes retiring, terminating or dying before the authorized December date for payment, the director may authorize earlier payment dates. Such length of service pay shall be based upon length of continuous state service, as determined retroactively under s. 16.30, as follows: \$50 for at least 5 years but less than 10 years of service; \$100 for at least 10 but less than 15 years of service; \$150 for at least 15 but less than 20 years of service; \$200 for at least 20 but less than 25 years of service; and \$250 for 25 or more years of service.

(an) *Requests for length of service pay.* Each department head shall, in submitting his budget to the governor or governor-elect and to the joint committee on finance, request an amount which is estimated to be required during the budgetary period for length of service pay authorized by par. (am).

(b) *Separate schedules.* The several separate pay schedules may incorporate different pay structures and wage and salary administration features. Each schedule shall provide for pay ranges or pay rates and applicable methods and frequency of within range pay adjustments based on such considerations as competitive practice, appropriate principles and techniques of wage and salary administration and determination and the needs of the service. Not limited by enumeration, such considerations for establishment of pay rates and ranges and applicable within range pay adjustments may include provisions prevalent in schedules used in other public and private employment, professional or advanced training, recognized expertise, or any other criteria which assures state employe compensation is set on an equitable basis.

(bf) *Legislative action.* Provisions of the compensation plan that the joint committee on employment relations approves which require legislative action for implementation, such as changes in fringe benefits and any proposed amendments, deletions or additions to existing law, shall be introduced by the committee in companion bills, to be put on the calendar. Such bills shall not be subject to ss. 13.10 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may, however, submit suitable portions of the bills to appropriate legislative committees for advisory recommendations on the proposed changes. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the

committee's concurrence with the matters under consideration and which recommends the passage of such legislation without change. It is the intent of the legislature to make this process consistent with that set forth under s. 111.92.

(c) *Supplementary compensation.* 1. When applicable, the compensation plan may provide for pay supplements to reflect those circumstances not reflected by the basic pay rates or ranges as established in the compensation plan. Such pay supplements shall not be considered as part of an employee's basic pay.

2. The director shall establish a plan for extra compensation of 10 cents per hour, which shall be changed to 15 cents per hour effective July 1, 1972, to be paid for hours worked between 6 p.m. and 6 a.m. by persons in full-time positions, and part-time positions where employment regularly equals or exceeds one-half time on a daily, weekly or monthly basis, and shall promulgate rules for determining eligibility for such extra compensation. Such rules shall provide that the extra compensation shall be paid to all employees for the portion of regularly scheduled hours that fall between 6 p.m. and 6 a.m., but may exclude hours so worked on an unscheduled basis. No person is eligible for such extra compensation in a full or part-time position unless he has worked not less than 2 hours between 6 p.m. and 6 a.m. There shall be added to the amount otherwise paid in a pay period to an employee any amount earned under this subdivision, which shall be considered separately from the basic pay rate of the employee. The director shall report any recommendation for changes thereof to the joint committee on employment relations as prescribed in sub. (3) (b).

3. Meals furnished an employee by the employing state agency, while the employee is required by the agency to take meals in the performance of assigned duties or responsibilities, shall be furnished without charge to the employee or deduction from the employee's salary.

(e) *Maintenance provisions.* The compensation plan shall also include the approved schedule of allowable charges for the deductions from the pay of employees who are furnished meals, wholesale provisions, rooms, apartments and houses and other maintenance provisions. Where allowances such as laundry, meals or lodging are provided any classified employee or an employee and his family, and such allowance in kind is included as a part of the compensation, the appointing authority or department head in addition shall pay in cash the value of the food during the vacation period or noncumulative leave of absence, if not so utilized, to such an employee.

(3) COMPENSATION PLAN; ESTABLISHMENT AND REVISION. (a) *Submission to the board.*

The director shall submit to the board his proposal for any required changes in the compensation plan which may include across the board or equity pay adjustments for positions in the classified service. The proposal shall be based upon experience in recruiting for the service, data collected as to rates of pay for comparable work in other public services and in commercial and industrial establishments, recommendations of state departments and any special studies carried on as to the need for any changes in the compensation plan to cover each year of the biennium. The proposal shall also take proper account of prevailing pay rates, costs and standards of living, the findings of the biennial wage and benefit survey conducted pursuant to par. (am) and the state's employment policies.

(am) *Wage and benefit survey.* Immediately after the organization of the joint committee on employment relations in each regular session of the legislature, the director shall report to the committee the findings of a comparative biennial state-wide wage and benefit survey conducted by the director of public and private employers in major metropolitan areas. Such report shall contain comparisons of local public employee and private industry salary levels in the areas surveyed. In preparing this report, the director may direct political subdivisions of the state to prepare such salary and benefit information as he deems necessary.

(b) *Public hearing on the proposal; adoption of plan.* After receipt of advice and counsel from the board, the director shall submit the proposal for any required changes in the compensation plan to the joint committee on employment relations. The joint committee on employment relations shall hold a public hearing on the recommendations submitted by the director. The proposal, as may be modified by the joint committee on employment relations together with the unchanged provisions of the current compensation plan shall for the ensuing fiscal year or until a new or modified plan is adopted pursuant to this subsection, constitute the state's compensation plan for positions in the classified service. Any modification of the director's proposed changes in the compensation plan by the joint committee on employment relations may be disapproved by the governor within 10 calendar days. A vote of 6 members of the joint committee on employment relations is required to set aside any such disapproval of the governor.

(c) *Interim adjustments.* Subject to pars. (a) and (b), the director may propose amendments to one or more parts of the compensation plan at such times as the needs of the service require.

(d) *Legislative employees.* This subsection shall not apply to employees of the legislature under s. 13.20 (2).

**(4) COMPENSATION PLAN IMPLEMENTATION PROVISIONS.** When an approved compensation plan or an amendment thereto becomes effective, required individual pay adjustments shall be made in accordance with the statutes and rules of the director.

**(5) WITHIN RANGE PAY INCREASES.** (a) *Pay advancement techniques, application.* The varying circumstances and needs of the widely diverse occupational groups of state service must be recognized and met through several methods of systematic pay advancement. To this end the compensation program shall contain either individual application or combinations of pay advancement techniques which shall apply as follows:

1. "Merit increases". Pay increases within pay ranges shall be allowed each year on the date prescribed under sub. (8), in recognition of meritorious service to employes whose class of position is allocated to a pay schedule for which all or part of pay advancement is based on meritorious service, by each department head for his department, in accordance with this section and rules of the director. Increases shall be granted only on the basis of meritorious service and not for longevity, employe need or for other similar reasons. The director shall establish rules for assuring that state departments follow procedures which promote this end, including therein the use of employe work planning and progress evaluations and such other measurements as may be required.

a. Unless otherwise defined in the pay schedule the total monthly amount authorized for all such merit increases during each fiscal year of the biennium shall not exceed 80% of the amount which would be required if every employe eligible for a merit increase on July 1 were to receive an increase equal to one within range pay step or the portion thereof required to reach the maximum of the range; but if such 80% is not an exact multiple of \$1, it shall be increased to the next higher \$1 multiple. Eligibility determinations shall be defined in the rules of the director.

b. Subject to maximum of the pay range, distribution of merit increases shall be in multiples of \$1.

c. No appointing authority shall award an employe merit increases exceeding a total of 2 within range pay steps during a fiscal year. Merit increases of 2 within range pay steps shall be granted by an appointing authority only for exceptionally meritorious service.

d. An appointing authority may award merit increases amounting to as much as 2 intermediate steps to not more than 10% of the eligible employes in his department during the fiscal year, based on the total number of eligible

employes on July 1. In computing the 10% limitation, any resulting fraction shall be rounded to the next whole number.

e. No employe shall be eligible for a merit increase on July 1 if he has not completed his probationary period or the first 6 months of a lengthened probationary period established pursuant to s. 16.22 (1).

f. With a view to recognizing and encouraging superior service, merit increases may be allowed at periods in the fiscal year other than on the date prescribed under sub. (8) in accordance with sub. (7) and the director's rules. The total amount of such merit increases awarded during a fiscal year shall not exceed the limitation established in this subdivision.

g. It is declared to be legislative intent that all compensation adjustments for state employes that are approved by the legislature shall take effect on the beginning of the pay period closest to July 1.

h. It is declared to be legislative intent that the amount of merit increase funds generated in pay ranges 1-01 through 1-08 of schedule 1 shall be distributed to eligible employes in these pay ranges only.

2. "Length of service pay increases". Increases within pay ranges shall be granted in recognition of length of service to employes whose class of position is allocated to a pay schedule for which all or a part of the pay advancement is based on length of service, in accordance with the applicable pay schedule and the director's rules. The service requirements, amount of individual pay increase, and frequency of adjustments shall be provided for in the applicable pay schedule.

3. "Other basis for within range adjustments". Other appropriate within range adjustments as may be provided in the compensation schedule shall be allowed as provided in the plan and the rules of the director.

(b) *Budget for pay increases.* Each department head shall, in submitting his budget to the governor or governor-elect and to the joint committee on finance, request an amount for employe pay in accordance with the compensation plan in effect and the rules and statutes relating thereto and an amount estimated for merit increases authorized under par. (a) 1. a.

**(6) ADDITIONAL HOURS OF WORK PROVISIONS.** Provisions relating to compensation for hours of work in addition to the standard basis of employment under s. 16.30 (5) (a) shall be provided for in the rules of the director. Employes shall be compensated in cash or time off for additional hours of work at the rate of one and one-half times the regular rate, except for employes in positions specifically exempted by the rules of the director.

(7) **MERIT INCREASES.** Consistent with applicable provisions of sub. (5) it is the declared public policy that pay rates of employes in the classified service shall be increased from time to time consistent with sound personnel management practices and in accordance with the applicable compensation schedules approved under sub. (3), until the maximum of the pay range for the position has been reached. Except as otherwise provided herein, in the rules of the director and in the compensation plan such pay increases shall be made only on the date prescribed under sub. (8). Appointing authorities shall at such time after July 1 each year as specified by the director of personnel file with him and with the department of administration a list of employes showing their then existing pay rates and their proposed new pay rates. Subject to rules of the director of the bureau of personnel, if any employe terminates with a department during the fiscal year, the monthly amount of the merit increase granted to him on the date designated under sub. (8) may be distributed by the appointing authority to other eligible employes in the department, in \$5 multiple amounts, the total monthly distribution of which shall not exceed the monthly increase granted to the terminated employe on the date designated under sub. (8). This redistribution shall be subject to the limitations and requirements of sub. (5), and no pay increase shall take effect unless the resulting pay is certifiable under s. 16.37 (2).

(8) **EFFECTIVE DATE OF COMPENSATION ADJUSTMENTS.** Notwithstanding any other provision of the statutes, all compensation adjustments for state employes shall be effective on the beginning date of the pay period nearest the statutory or administrative date.

History: 1971 c. 55, 125, 215; 1971 c. 270 ss. 20, 27, 28, 30 to 32; 1971 c. 336; 1973 c. 12, 51, 90.

**16.095 Closed records.** The director may keep records of the following personnel matters closed to the public:

- (1) Evaluations of applicants.
- (2) Names of applicants other than those certified for employment.
- (3) Dismissals.
- (4) Demotions.
- (5) Disciplinary actions.
- (6) Pay survey data obtained from identifiable nonpublic employers.
- (7) Names of nonpublic employers contributing pay survey data.

History: 1971 c. 270.

**16.10 Recruitment.** To attract the best qualified applicants to the classified service, recruitment prior to each examination shall be

on the broadest base consistent with sound personnel management practice with due consideration given to the provisions of s. 16.15. The director shall determine the most appropriate source of recruitment based on the availability of qualified applicants and the needs of the service.

History: 1971 c. 270.

**16.11 Appointments, promotions, changes in classified service.** (1) Appointments to, and promotions in the classified service, shall be made only according to merit and fitness, which shall be ascertained so far as practicable by competitive examination. When the state becomes responsible for a function previously administered by another governmental agency, a quasi-public, or a private enterprise, or when positions in the unclassified service, excluding employes of the legislature, are determined to be more appropriately included in the classified service, the director shall determine appropriate eligibility, pay, employe benefits and status identified in ss. 16.22 and 16.30.

(2) In case of a vacancy in a position in the classified service when peculiar and exceptional qualifications of a scientific, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special cases is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the director may waive competition requirements except when the vacancy is to be filled by promotion. Any actions taken under this subsection shall be reported to the board.

(3) No person shall be appointed, transferred, removed, reinstated, restored, promoted or reduced in the classified service in any manner or by any means, except as provided in this subchapter.

History: 1971 c. 270 ss. 23, 46; 1973 c. 90.

**16.12 Applications and examinations.** (1) The director shall require persons applying for admission to any examination under this subchapter or under the rules of the director to file an application with the bureau a reasonable time prior to the proposed examination.

(a) The director may require in connection with the application such supplementary work history, educational transcripts, statements of physicians or others having knowledge of the applicant, as needed for qualification evaluations.

(b) The bureau shall furnish application forms without charge to all persons requesting them.

(2) Competitive examinations shall be free and open to all applicants who are residents of this state and who have fulfilled the preliminary requirements stated in the examination announcement. To assure that all state residents have a fair opportunity to compete, examinations shall be held at such times and places as, in the judgment of the director, most nearly meet the convenience of applicants and needs of the service. If a critical need for employes in specific classifications or positions exists, the director may open competitive examinations to residents of other states.

(3) The director may appoint specially constituted boards of examiners for the purpose of conducting oral examinations as a part of the recruitment procedure for certain positions. Each such board may include one representative from the department of administration and from 1 to 3 other well-qualified members, of whom at least 1 or 2 shall not be permanent employes of the state. The outside members shall be well qualified, impartial, and of recognized attainment in their respective fields. Whenever such oral examinations of applicants are required, all questions asked and answers made shall be recorded and made a part of the records of such applicants.

(4) All examinations for positions in the classified service shall be of such character as to determine the qualifications, fitness and ability of the persons examined.

(5) In the interest of sound personnel management, consideration of applicants and service to state departments, the director may set a standard for proceeding to subsequent steps in an examination, provided that all applicants are fairly treated and due notice has been given. The standard may be at or above the passing point set by the director for the written, oral, physical performance or evaluation of training and experience portions of an examination. The director shall utilize appropriate scientific techniques and procedures in administering the selection process, in rating the results of examinations and in determining the relative ratings of the competitors.

(6) To insure competitive equality between the blind and persons not so handicapped in participating in civil service examinations, the applicant may request the bureau to provide a reader, a place to take the examination and other similar prerequisites to insure equality of opportunity in such examination.

(7) A preference shall be given to any qualifying veteran. A preference means that whenever a veteran gains eligibility on any competitive employment register 5 points shall be added to his grade; and if such veteran has a disability which is directly traceable to war

service, he shall be accorded another 5 points. "Veteran" as used in this subsection means any person who served on active duty under honorable conditions in the U.S. armed forces who was entitled to receive either the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, or the Viet Nam service medal established by executive order 11231 on July 8, 1965, or for at least one day during a war period, as defined in s. 45.35 (5) (a) to (g) or under section 1 of executive order 10957 dated August 10, 1961.

(8) The director may designate persons in or out of the official service of the state or of any municipality or county who shall, if in the service, with the consent of the head of department or office in which such person serves, act as local examiner. Such persons in the performance of such duties as the director orders, shall be under the direct and sole control of the director; and their duties shall be considered part of the duties of the offices in which they are serving, and time shall be allowed therefor during office hours.

(9) The officials in control of municipal and county buildings, upon requisition by the director, shall furnish adequate rooms and building services for the administration of examinations.

(10) Every precaution shall be taken to prevent any unauthorized person from gaining any knowledge of the nature or content of the examinations that is not available to every applicant.

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

History: 1971 c. 270 ss 12, 24, 35 to 37.

**16.13 Applicants and eligibles may be barred; bonds may be required.** (1) The director shall provide by rule, the conditions, not otherwise provided by law, under which an applicant may be refused examination or reexamination, or an eligible refused certification. These conditions shall be based on sufficient reason and shall reflect sound technical personnel management practices and those standards of conduct, department and character necessary and demanded to the orderly, efficient and just operation of the state service.

(2) Whenever the director refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, then said director, if requested by the person so rejected within 10 days of the date of receipt of such notice of rejection, shall give to him a full and explicit statement of the exact cause of such

refusal to examine or to certify, as the case may be. Upon request of an applicant or an eligible for a civil service position who is blind, the department of health and social services shall obtain from the director a detailed description of all duties entailed by such position and investigate the necessity for eyesight in the fulfillment of the duties of any position, and shall determine and report its findings to the director, as to the physical ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the physical qualifications of any applicant, or eligible, so examined.

(3) When any position to be filled involves fiduciary responsibility, the appointing authority, where otherwise permitted by law, may require the appointee to furnish bond or other security, and shall notify the director of the amount and other details thereof. Any surety company authorized to do business in this state shall be a sufficient security on any such bond.

History: 1971 c. 270

**16.14 Political or religious affiliations; no discrimination.** No question in any form of application or in any examination shall be so framed as to elicit information concerning the partisan political or religious opinions or affiliations of any applicant nor shall any inquiry be made concerning such opinions or affiliations and all disclosures thereof shall be discounted except that the director may evaluate the competence and impartiality of applicants for positions such as clinical chaplain in a state institutional program. No discriminations shall be exercised in the recruitment, application, examination or hiring process against or in favor of any person because of his political or religious opinions or affiliations or because of his age, sex, handicap, race, color, national origin or ancestry except as otherwise provided.

History: 1971 c. 270

**16.15 Promotion.** When, in the judgment of the director, the group of applicants best able to meet the requirements for vacancies in positions in the classified service are available within the classified service, such vacancies shall be filled by competition limited to persons in the classified service who are not employed under s. 16.21.

History: 1971 c. 270 s. 50

**16.16 Recommendations.** (1) Selection of classified state employees shall be based solely on merit and no employment recommendation shall be based on political or religious affiliations or on membership in associations not primarily related to merit in employment.

(2) An appointing authority may consider only those recommendations which he believes provide an objective evaluation of an applicant's character, training, experience, skills or abilities as they relate to the requirements for the position.

(3) Applicants for promotion shall not solicit recommendations from any source.

History: 1971 c. 270

**16.17 Unskilled labor and critical recruitment selection.** (1) The director may, to meet the needs of the service, establish separate recruitment, examination and certification procedures for filling positions in unskilled labor and service classes.

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

History: 1971 c. 270

**16.18 Entry professional selection.** The director may establish by rule an entry professional class program for use in a wide range of entry professional positions.

(1) In connection with this program the director may:

(a) Establish separate classifications and corresponding pay provisions to provide state departments an entry professional program, through which they can compete on campuses and in the labor market for the best available applicants.

(b) Provide that certifications and appointments may be made from among any applicants who have attained eligibility or by a process of selective certification from among all eligibles.

(2) The director may provide for cooperative programs leading to eligibility for permanent appointment in order to enable state departments and institutions of higher education to attract and train the highest caliber of undergraduate or graduate students for government employment.

History: 1971 c. 270

**16.185 Understudy selection.** The director may provide by rule for an understudy program to assure continuity in selected positions.

History: 1971 c. 270

**16.19 Career executive selection.** The director may by rule develop a career executive

program that emphasizes excellence in administrative skills in order to provide state departments with a pool of highly qualified executive candidates, to provide outstanding administrative employes a broad opportunity for career advancement and to provide for the mobility of such employes among the departments and units of state government for the most advantageous use of their managerial and administrative skills. To accomplish the purpose of this program, the director may provide policies and standards for recruitment, examination, probation, employment register control, certification, classification, salary administration, transfer, promotion and reemployment separate from procedures established for other employment. The director shall determine the positions which may be filled from career executive employment registers.

History: 1971 c. 270

**16.20 Certification, appointments and registers.** (1) Appointing authorities shall give written notice to the director of any vacancy to be filled in any position in the classified service; and the director shall certify, pursuant to this subchapter and the rules of the director, from the register of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, the 3 names at the head thereof, which have not been certified 3 times.

(2) Unless otherwise provided in this subchapter and rules pursuant thereto, appointments shall be made by appointing authorities to all positions in the classified service from among those certified to them in accordance with sub. (1). Appointments shall be made within 60 days after the date of certification unless an exception is made by the director. If an appointing authority does not make an appointment within 60 days after certification he shall immediately report in writing to the director the reasons therefor. If the director determines that the failure to make an appointment is not justified under the merit system, he shall issue an order directing that an appointment be made.

(3) The term of eligibility on original entrance and promotional registers is 6 months and thereafter the register expires but may be reactivated by the director for up to 3 years from the date of the establishment of the register. The eligibility of individuals for reinstatement or restoration is 3 years except as provided in ss. 16.22 and 16.28.

(4) (a) The director may establish a new and separate register for a specific position or class only when in his judgment there is no appropriate existing register from which appointments may be made.

(b) The director may establish separate registers for various geographic areas of the state

if the needs of the service so require, provided proper publicity has been given of the intent to establish such registers.

History: 1971 c. 270 ss. 45, 48.

**16.21 Limited term appointments.** (1) The director may provide by rule for selection and appointment for limited term appointments which shall include but not be limited to part-time (which is less than half-time on a daily, weekly or monthly basis), short-term, project and student appointments. Provisional and emergency appointments shall be deemed short-term appointments and be subject to subs. (2) and (3).

(2) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify to the appointing authority, upon requisition by the latter, a list of persons eligible for appointment from an appropriate employment register, the appointing authority, may nominate a person to the director for noncompetitive examination. If such nominee is certified by the director as qualified, he may be appointed provisionally to fill such vacancy until an appointment can be made from a register established after announcement of competition for the position, but no provisional appointment shall be continued for more than 45 working days after the date of certification from such register. Successive appointments shall not be made.

(3) An appointment may be made by an appointing authority in an emergency without regard to the selection provisions of this subchapter, but in no case to continue longer than 20 work days, and in no case shall successive emergency appointments be made.

(4) Fringe benefits specifically authorized by statutes, with the exception of workmen's compensation, unemployment compensation, group insurance, retirement and social security coverage, shall be denied employes covered in subs. (1) to (3). Employes in these positions are not considered career employes and do not qualify for tenure, vacation, paid holidays, sick leave, merit increases or the right to compete in promotional examinations.

History: 1971 c. 270 ss. 54, 55.

**16.22 Probationary period.** (1) (a) All original and all promotional appointments to permanent, sessional and seasonal positions in the classified service shall be for a probationary period of 6 months, but the director, in an original appointment, at the request of the appointing authority and in accordance with the rules related thereto may extend any such period for a maximum of 3 additional months. Dismissal may be made at any time during such

periods. Upon such dismissal, the appointing authority shall forthwith report to the director and to the employe removed, his action and the reason therefor. The director may remove an employe during his probationary period if he finds, after giving notice and an opportunity to be heard, that such employe was appointed as a result of fraud or error.

(b) The director may authorize a longer probationary period not to exceed 2 years for any administrative, technical or professional position, in order to provide the appointing authority assurance that the employe has had adequate exposure to the various responsibilities which are a part of the position or classification.

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

(d) A promotion or other change in job status within a department shall not affect the permanent status in class and rights, previously acquired by an employe within such department. An employe demoted under s. 16.28 (1) shall not retain the permanent status in class previously acquired in the classification from which he was demoted.

(2) Fifteen days prior to the expiration of an employe's probationary period, the director shall notify the appointing authority the date on which the probationary period will terminate, and thereupon the appointing authority shall notify the director in writing whether or not the services of the employe have been satisfactory and whether or not he will continue the employe in his position. A copy of such notice shall be given to the employe. An employe gains permanent status unless terminated by the appointing authority prior to the completion of his probationary period.

(3) If an employe is removed from his position during his probationary period, and the director determines that he is suitable for appointment to another position, his name may be restored to the list from which it was certified.

(4) A person reinstated in an employing unit other than one in which he previously served in permanent status in the class in which he is being reinstated, or an employe who transfers from one employing unit to another or an employe who moves to a different employing unit in conjunction with a voluntary demotion, may be required by the appointing authority to serve a probationary period. Provisions for the duration of such probationary period shall be provided in the rules of the director.

(5) An employe whose position is classified as "trainee" shall be on a probationary period for the duration of the training program and may be

separated during that period without the right of appeal, at the discretion of the appointing authority. Upon qualifying for the objective classification, he shall serve a probationary period as specified in sub. (1).

History: 1971 c. 270, 336.

**16.23 Transfers.** A transfer may be made from one position to another only if specifically authorized by the director.

History: 1971 c. 270.

**16.24 Temporary interchange of employes.** (1) **DECLARATION OF POLICY.** Intergovernmental cooperation, including that specified in the intergovernmental personnel act of 1970, P.L. 91-648, 84 Stat. 1909, is an essential factor in resolving problems affecting this state. The interchange of personnel on a temporary basis between and among governmental agencies at the same or different levels of government and with institutions of higher education is a significant factor in achieving such cooperation.

(2) **DEFINITIONS.** For the purposes of this section:

(a) "Sending agency" means any department or agency of the federal government or a state or local government, an institution of higher education or other municipal corporate agency which sends any employe thereof to another agency under this section.

(b) "Receiving agency" means any department or agency of the federal government or a state or local government, an institution of higher education or other municipal corporate agency which receives an employe of another agency under this section.

(c) "Local government" means any political subdivision, instrumentality or authority of a state or any general or special purpose agency of such a political subdivision, instrumentality or authority.

(3) **AUTHORITY TO INTERCHANGE EMPLOYEES.** Any department, agency or instrumentality of the state, or institution of higher education or any local government or other municipal corporate agency is authorized to participate in a program of interchange of employes with departments, agencies or instrumentalities of the federal government, another state or local government, an institution of higher education, other municipal corporate agencies or other agencies or instrumentalities of this state as a sending or receiving agency.

(4) **STATUS OF EMPLOYEES.** (a) Employes of a sending agency participating in an exchange of personnel as authorized in sub. (3), during such participation, are on detail to regular work assignments of the receiving agency.

(b) Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all purposes, including the payment of their salaries, and their continuous service benefits except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(c) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, for the purposes of the workmen's compensation act, is an employee of the sending agency.

(5) TRAVEL EXPENSES OF EMPLOYEES. A sending agency of the state shall not pay the travel expenses of its employees incurred in connection with their work assignments at the receiving agency.

(6) STATUS OF EMPLOYEES OF OTHER GOVERNMENTS. (a) When any department, agency or instrumentality of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this section are on detail to the receiving agency.

(b) Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, nor shall they be paid a salary or wage by the receiving agency during the period of their detail. The supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(7) TRAVEL EXPENSES OF EMPLOYEES OF OTHER GOVERNMENTS. A receiving agency of the state may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under this section during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

(8) ADMINISTRATION. The director shall promulgate rules for the operation and implementation of this section. The rules shall prescribe the duration, terms and conditions of such interchange.

(9) SALARY REIMBURSEMENTS. (a) Any funds received by a sending agency of the state from a receiving agency as reimbursement for salary expenditures made under an employe interchange agreement shall be credited to the appropriation from which the expenditures were paid.

(b) A receiving agency of the state may, in accordance with the salary provisions of the

sending agency, reimburse the sending agency for salary and fringe benefit expenditures for employes on detail to the receiving agency.

History: 1971 c. 270 ss. 63, 77.

**16.25 Restoration of employment and reinstatement privileges.** (1) Any person who has held a position and obtained permanent status in a class under the civil service law and rules and who has separated from the service without any delinquency or misconduct on his part but owing to reasons of economy or otherwise shall be granted the following considerations for a 3-year period from the date of such separation:

(a) If on layoff status, he shall be placed, in inverse order of his layoff, on an appropriate mandatory restoration register for the unit used for layoff and on a service-wide restoration register. Use of such registers shall be subject to the rules of the director.

(b) He shall be eligible for reinstatement in a position having an equal or lower pay rate or range for which he is qualified.

(2) The director may also provide for the reinstatement of persons who have served in seasonal and sessional employment and for persons who separate from a position while serving a probationary period.

History: 1971 c. 270 s. 60.

**16.26 Restoration after military leave.** (1) Any classified employe of this state, except a limited term employe, who enlists, is ordered or is inducted into active service in the armed forces of the United States or who is requested to work for the federal government during a national emergency or a limited national emergency, shall be restored to the same or similar position in the classified service and his employment shall be deemed not to have been interrupted by such leave except for the receipt of pay or other compensation, accumulation of sick leave and accumulation of vacation for the period of such absence and he shall be given all the benefits of seniority, status, pay, pay advancement, merit increases and pension rights under ch. 41 and subch. I of ch. 42 as though his state employment was continuous, if:

(a) He presents to the appointing authority a certificate or other evidence that he has satisfactorily completed his period of training or service, and discharge is other than dishonorable or other than by reason of the sentence of a general court martial, or other than on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authorities, or other than as a deserter or of an officer by the

acceptance of his resignation for the good of the service.

(b) The period of service is not more than 4 years unless involuntarily retained for a longer period.

(c) He is still qualified to perform the duties of such position.

(d) He makes application for restoration within 180 days after he is released from such training or services, or hospitalization continuing after discharge because of injuries or sickness resulting from such training or service.

(e) The circumstances of the employing agency have not changed so as to make it impossible or unreasonable to so restore such employe.

(2) (a) Any employe with permanent status in class who leaves state service for the reasons specified in this section and who has used his yearly vacation in anticipation of a full year's employment is presumed not to have interrupted his employment as far as vacation pay is concerned, and any portion of his vacation for which he was paid which is unearned at the time of being called to duty as herein specified may be made up when he returns to state service. If such employe does not return to the state service, he shall within 2 years after termination of leave repay the state the amount he had not earned. The application of this provision shall be retroactive to all state employes called to active duty under P. L. 87-117.

(b) Any classified employe who was serving his probationary period, except in the capacity of a substitute, when he left state service shall, under this section, be restored to that point of service in his probationary period as though his state employment had not been so interrupted.

(c) Any classified employe who had attained restoration rights as a seasonal employe when he left state service shall, under this section, be restored to such seasonal position or eligibility as though his service or eligibility had not been so interrupted.

(3) (a) Any classified employe who leaves state service and enters the armed forces of the United States shall, under this section, be granted written military leave of absence by the appointing authority. Notice of such leave from state service and the terms of any such leave shall be given in writing by the appointing authority to the director for purposes of record.

(b) Any classified employe who leaves state service for civilian employment in response to a specific request or order of the federal government or any of its agencies in connection with manpower redistribution and utilization shall, under this section, make written application to the appointing authority for civilian leave of absence presenting such specific request or order

of the federal government as supporting evidence. Such civilian leave shall be allowed by the appointing authority and its terms, which shall conform to the rules of the director, shall be in writing. Notice of such leave from state service shall be made in writing by the appointing authority to the director for purposes of record.

(c) All such military or civilian leaves of absence as heretofore may have been granted are validated and shall be deemed to be sufficient and effective hereunder. Such leaves shall be recorded with the director.

(4) Any person appointed to fill the position of an employe on such military or civilian leave shall be designated as a substitute or replacement employe and upon the return and reemployment of the original employe the substitute employe shall be transferred to a similar position with the same employing agency if one is available, or if not, he shall be eligible for reinstatement in accordance with this subchapter and the rules of the director. The status of any person who is appointed to fill the place of an employe on military or civilian leave under this section shall be governed by the rules of the director pursuant thereto.

(5) The restoration of classified former employes of the state shall be governed by this section and by the rules of the director.

(6) Any classified employe on June 5, 1953, who entered the service of the United States in civilian war emergency employment on or after January 1, 1942, and who was not at the time of such entry an employe of the state, and who on November 16, 1946, in accordance with P. L. 79-549 was transferred to the service of this state shall have such seniority rights as though he had been a member of the classified service of the state during the period of his employment in the service of the United States.

History: 1971 c. 270 ss 73, 74

**16.27 Leave of absence and pay while serving in unclassified position.** Employes who have completed an original appointment probationary period in the classified service and are appointed to a position in the unclassified service shall be subject to the following provisions relative to leave of absence, restoration rights, reinstatement privileges and pay:

(1) A person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his department, shall be granted a leave of absence without pay for the duration of his appointment and for 3 months thereafter, during which time he shall have restoration rights to his former position or equivalent position in the department in which

he was last employed without loss of seniority. He shall also have reinstatement privileges for 3 years following his appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from his former position in the classified service.

(2) A person appointed to an unclassified position by an appointing authority other than an elected officer, judicial body, legislative body or committee, to a department other than the one in which he was a classified employe shall be granted a leave of absence without pay at the option of his former appointing authority in accordance with the leave of absence provisions in the rules of the director. He shall be entitled to the same reinstatement rights as in sub. (1).

(3) An employe appointed to a position in the unclassified service from the classified service shall be entitled to receive at least the same pay he received in his classified position while serving in such unclassified position.

(4) This section shall supersede any provision of law in conflict therewith but shall not diminish the rights and privileges of employes appointed to the unclassified service from the classified service prior to April 30, 1972.

History: 1971 c. 270 s. 69; 1973 c. 12

#### **16.28 Demotion, suspension, discharge and layoff.**

(1) (a) An employe with permanent status in class may be removed, suspended without pay, discharged, or reduced in pay or position only for just cause. This paragraph shall apply to all employes with permanent status in class in the classified service, except that for employes in a certified bargaining unit covered by a collective bargaining agreement, the determination of just cause and all aspects of the appeal procedure shall be governed by the provisions of the negotiated agreement.

(b) No suspension without pay shall be effective for more than 30 days. The appointing authority shall, at the time of any action under this section, furnish to the employe in writing his reasons therefor. The reasons for such action shall be filed in writing with the director within 5 days after the effective date thereof.

(c) The director shall establish guidelines for uniform application of this authority among the various departments.

(2) Employes with permanent status in class in permanent, sessional and seasonal positions in the classified service and employes serving a probationary period in such positions after promotion or transfer may be laid off because of a reduction in force due to a stoppage or lack of

work or funds or owing to material changes in duties or organization but only after all original appointment probationary, provisional and emergency employes in the classes used for layoff, are terminated.

(a) The order of layoff of such employes may be determined by seniority or performance or a combination thereof or by other factors.

(b) The director shall promulgate rules governing layoffs and appeals therefrom and alternative procedures in lieu of layoff to include voluntary and involuntary demotion and the exercise of a displacing right to a comparable or lower class, as well as the subsequent employe right of reinstatement.

(3) The appointing authority shall confer with the director relative to a proposed layoff a reasonable time before the effective date thereof in order to assure compliance with the rules.

(4) Resignations shall be regulated by the rules of the director.

History: 1971 c. 270 ss. 61, 76

On an appeal from discharge the appointing officer has the burden of persuasion that the discharge was for a just cause and the facts must be established to a reasonable certainty by the greater weight or clear preponderance of the evidence. *Reinke v. Personnel Board*, 53 W (2d) 123, 191 NW (2d) 833.

#### **16.295 Personnel assistance to local units of government.**

To further develop and maintain sound personnel management practices at the local government level, the director of personnel shall, when requested by the proper authorities, provide service and personnel management consultative assistance to towns, villages, cities, counties, boards of education or other local public bodies, boards, commissions, departments or agencies, and shall charge the cost of such service to them.

History: 1971 c. 270 s. 15

#### **16.30 State office hours; standard work week; leaves of absence; holidays.**

(1) (a) Except as provided in par. (f) and sub. (1m), heads of departments shall grant to each person in their employ, except limited-term employes, based on his accumulated continuous state service, annual leave of absence without loss of pay at the rate of:

1. Eighty hours each year for a full year of service during the first 5 years of service;

2. One hundred twenty hours each year for a full year of service during the next 10 years of service;

3. One hundred sixty hours each year for a full year of service during the next 10 years of service;

4. Two hundred hours each year for a full year of service after 25 years of service but the employe, at his option, and subject to the rules of the director may receive 40 of such hours benefit:

a. as vacation during the year earned; b. in cash during the year earned; c. as credit for termination leave; d. as accumulated sabbatical leave.

(b) An employe, with the approval of the head of his department, may anticipate the annual leave which he could earn during the current calendar year except that no employe shall be eligible to take annual leave until he has completed the first 6 months of a probationary period for an original appointment.

(c) When the rate of annual leave changes during the 5th, 15th or 25th calendar year, the annual leave for that year shall be prorated.

(d) Annual leaves of absence shall not be cumulative except under par. (a) 4 and sub. (1m) and except that unused annual leave shall, subject to the rules of the director, be used in the year following the one in which it was earned, but no employe shall lose any unused annual leave because his work responsibilities prevented him from using such unused annual leave during the first 6 months of the year following the year in which it was earned.

(e) Permanent classified employes, permanent part-time employes and seasonal employes with permanent seasonal status in class who are regularly employed for less than 12 months out of a year shall be granted pro rata annual leave consistent with par. (a). These employes, with the approval of their appointing authority, may anticipate the vacation which they will earn during their current period of employment.

(f) Heads of departments shall grant to each person in their employ on January 1, 1959, or whose absence on such date is covered under par. (g), who was employed prior to January 1, 1958, noncumulative annual leave of absence without loss of pay at the rate of 120 hours for a full year's service and, based on his accumulated continuous state service, at the rate of 160 hours after 15 full years of service, and, at the rate of 200 hours after 25 full years of service as provided in par. (a) 4. Employes covered under this paragraph, with the approval of their appointing authority, may anticipate the annual leave which they will earn during the current calendar year. Seasonal employes who were employed 6 or more months in 1957 and 1958 and who are reemployed in the same or other seasonal position in 1959 shall be granted pro rata annual leave consistent with this paragraph.

(g) The continuous service of an employe eligible for annual leave shall not be considered interrupted if he was absent for not more than 30 calendar days in a calendar year or was on an approved leave of absence or left the service and is reemployed within 3 years. This paragraph applies to all persons who are employes on April

30, 1972, and to all employes returning to service after that date.

(gf) The continuous service of an employe appointed to a career executive position under the program established pursuant to s. 16.19 or to a position designated in s. 20.923 (4), (8), (9) and (12) as set forth in section 152, chapter 90, laws of 1973, shall not be considered interrupted if he leaves the service and is reemployed by the state in another position as designated above for purposes of determining eligibility for length of service payments under s. 16.086 (1) (am).

(gm) Each employe of the state on October 17, 1971 shall be granted credit towards accumulated continuous service for all service in Wisconsin as a national guard technician which has not been credited under any other provision of this section.

(h) Any absence of more than 30 days, except military leave, leave to serve in the unclassified service, and absence due to injury or illness arising out of state employment and covered by the workmen's compensation act shall not be counted in computing years of continuous service under this subsection. Employes subject to par. (e) shall be deemed to have completed one full year of service for each such seasonal, sessional or other part-time annual period of service in computing years of continuous service under this subsection.

(i) Annual leave shall not be earned for any period of absence without pay except that for administrative purposes any approved leave of 30 calendar days or less may be disregarded.

(j) The appointing authority shall respect the wishes of the eligible employes as to the time of taking their annual leave insofar as the needs of the service will permit.

(m) Payment for any unused authorized leave to which an employe is entitled upon termination, shall be made in a separate and distinct amount.

**(1m)** (a) Employes appointed to career executive positions under the program established pursuant to s. 16.19 or positions designated in s. 20.923 (4), (8), (9) and (12) as set forth in section 152, chapter 90, laws of 1973, shall be entitled to annual leave of absence without loss of pay based upon accumulated continuous state service at the rate of:

1. 120 hours for a full year of service during the first 5 years of service;
2. 160 hours each year for a full year of service during the next 10 years of service;
3. 200 hours each year for a full year of service after 15 years of service.

(b) Employes at the 160-hour rate may, in the year earned, elect to receive 40 hours of such earned annual leave as:

1. Vacation during the year earned;

2. As credit for termination leave;
3. As accumulated sabbatical leave.

(c) Employees at the 200-hour rate may, in the year earned, elect to receive 80 hours of such earned annual leave as:

1. 40 hours in cash during the year earned;
2. Vacation during the year earned;
3. As credit for termination leave;
4. As accumulated sabbatical leave.

(d) Employees who previously were covered under sub. (1) (a), or other statutory provision regarding annual leave, who become subject to this subsection shall have their present continuous service credits for annual leave purposes applied to the career executive schedule at the appropriate rate. In no case shall the employee receive a reduction in annual leave hours earned by such change in schedules.

(e) The continuous service of an employee eligible for annual leave under this subsection shall not be considered interrupted if he leaves the service and is reemployed by the state in another position covered under this subsection. If reemployed in a position not covered under this subsection the employee shall be required to meet the continuous service requirements of sub. (1) (g). This paragraph applies to all persons who are employees covered under this subsection on or after July 1, 1973.

(1) (g) This paragraph applies to all persons who are employees covered under this subsection on or after July 1, 1973.

(2) Leave of absence with pay owing to sickness and leave of absence without pay, other than annual leave, shall be regulated by rules of the director, except that unused sick leave shall accumulate from year to year. After July 1, 1973 employees appointed to career executive positions under the program established pursuant to s. 16.19 or positions designated in s. 20.923 (4), (8), (9) and (12) as set forth in section 152, chapter 90, laws of 1973, shall have any unused sick leave credits restored if they are reemployed in a career executive position or in a position under s. 20.923 (4), (8), (9) and (12), regardless of the duration of their absence. Restoration of unused sick leave credits if reemployment is to a position other than those specified above shall be in accordance with rules of the director.

(2m) An employee of the state who as a result of long and faithful service has accumulated unused sick leave under sub. (2), shall at the time of retirement or death, receive full conversion credit at his current basic pay rate for those days. The conversion credit shall be recorded and used on behalf of the employee or surviving spouse to offset the cost of health insurance premiums under s. 40.16 (3). The appointing officer shall notify the group insurance board within 60 days of the employee's retirement of the amount of credit the employee is eligible to receive. The administration of this

benefit shall be subject to ch. 40, and the rules of the group insurance board.

(3) (a) Officials and employees of the state who have permanent status and who are members of the national guard, the state guard, or any other reserve component of the military forces of the United States or this state now or hereafter organized or constituted under federal or state law, are entitled to leaves of absence without loss of time in the service of the state, to enable them to attend military schools and annual field training or annual active duty for training, and any other state or federal tours of active duty, except extended active duty or service as a member of the active armed forces of the United States which have been duly ordered but not exceeding 15 days, excluding Saturdays, Sundays and holidays enumerated in sub. (4) in the calendar year in which so ordered and held. There shall be no deduction from or interruption in the pay from the state for the time spent in such attendance, whether or not they receive separate pay for and identified with the attendance. Such leave shall not be granted for absences of less than 3 days. A state official or employee serving on state active duty as a member of the national guard or state guard, may elect to receive pay from the state under s. 20.465 (1) in an amount equal to his base state salary for such period of state active duty. Leave granted by this section is in addition to all other leaves granted or authorized by any other law. For the purpose of determining seniority, pay or pay advancement and merit increases the status of the employee shall be considered uninterrupted by such attendance.

(b) Officials and employees of the state who are called to report for a preinduction physical for the military service shall be granted a leave of absence with pay for the time actually and necessarily spent in response to such call.

(c) Officials and employees of the state summoned for grand or petit jury service are entitled to leaves of absence without loss of time for the time of absence required pursuant to the summons and thereafter. There shall be no deduction from, nor interruption of pay from the state because of such absence.

(d) Employees of the state are entitled to reasonable paid leaves of absence to compete in promotional examinations and interviews. The director shall promulgate rules governing the lengths of time allowable for such leaves, their frequency and the provisions for their use.

(4) (a) The office of the departments of state government shall be kept open on all days of the year except Saturdays, Sundays and the following holidays:

1. January 1;

2. The last Monday in May, which shall be the day of celebration for May 30;
3. July 4;
4. The first Monday in September;
5. The 4th Thursday in November;
6. December 25;
7. The day following if January 1, July 4 or December 25 falls on Sunday;
8. After 12 noon on Good Friday, in lieu of the period specified in s. 256.17;
9. The afternoons of December 24 and 31.

(b) Compensatory time off or payment, either of which shall be at the rate of time and one-half, shall be granted to state employes for work performed on the holidays enumerated in par. (a) 1 to 6, 8 and 9.

(c) It is the intent of the legislature that all employes except provisional, emergency and limited-term employes be granted 7-1/2 paid holidays annually in addition to any other authorized paid leave, the time to be at the discretion of the department head.

(d) In addition to the holidays granted under pars. (a) and (c), all employes shall be granted one additional holiday annually effective July 1, 1969, and a 2nd additional holiday annually effective July 1, 1970, such holidays to be taken at the discretion of the appointing officer. The appointing officer shall respect the wishes of the eligible employes as to the time of taking the holidays under this paragraph insofar as the needs of the service will permit.

(e) Heads of departments shall give employes time off for voting under s. 6.76 without any deduction of compensation for time lost thereby.

(f) Monday to Friday the offices of the departments of state government shall open at 7:45 a.m. and close at 4:30 p.m., with intermissions from 11:45 a.m. to 12:30 p.m. Departments may, with the permission of the governor, adjust opening and closing hours and intermission periods to relieve traffic congestion or as the needs of the service otherwise require.

(5) (a) The standard basis of employment for the state service is 40 hours each 7 consecutive calendar day period; except that when the needs of an employing unit cannot be fulfilled by adhering to the standard basis of employment, additional hours of work may be required by the appointing authority. During a proclaimed national emergency, the governor may extend the work week and adjust the working hours to use the available manpower of any or all departments as he deems essential.

(b) The standard basis of employment shall be divided into 5 work days of 8 hours each except that when the conditions of employment cannot be satisfied by adhering to this division or when the public would not be inconvenienced,

deviations may be permitted upon recommendation of the appointing authority and subsequent approval by the director.

History: 1971 c. 91, 125, 183, 211, 226; 1971 c. 270 ss. 70, 71, 83, 104; 1973 c. 51, 243

**16.31 Hazardous employment, injuries, pay continued.** (1) Whenever a conservation warden, conservation patrol boat captain, conservation patrol boat engineer, state forest ranger, conservation field employe of the department of natural resources who is subject to call for fire control duty, member of the state patrol, state motor vehicle inspector, lifeguard, investigator employed by the division of criminal investigation of the department of justice, special tax agent, state drivers' license examiner, member of the state fair police department, university of Wisconsin policeman, state university and other state facilities policeman and patrolman, security officer, watchman, engineer, engineering aid, building construction superintendent, fire watchman employed at the Wisconsin veterans home, or guard or institutional aid or a state probation and parole officer or any other employe whose duties include supervision and discipline of inmates or wards of the state at the Wisconsin child center or at a state penal institution, including central state hospital, the state school for boys, the state school for girls, or while on parole supervision outside of the confines of the institutions, or supervision of persons placed on probation by a court of record, or supervision and care of patients at a state mental institution, and university hospitals suffers injury while in the performance of his duties, as defined in subs. (2) and (3); or any other state employe who is ordered by his appointing authority to accompany any employe listed in this subsection while such listed employe is engaged in the duties defined in sub. (3), or any other state employe who is ordered by his appointing authority to perform the duties, when permitted, in lieu of such listed employe and while he is so engaged in the duties defined in sub. (3), suffers injury as defined in sub. (2) he shall continue to be fully paid by his employing department upon the same basis as he was paid prior to the injury with no deduction from sick leave credits, compensatory time for overtime accumulations or vacation. Such full pay shall continue, while he is unable to return to work as the result of the injury, or until the termination of his employment upon recommendation of the appointing authority. At any time during the employe's period of disability the appointing authority may order physical or medical examinations to determine the degree of disability at the expense of the employing department.

(2) "Injury" as used in this section is physical harm to an employe caused by accident or disease.

(3) As used in this section "performance of duties" means duties performed in line of duty by:

(a) A forest ranger or field employe of the department of natural resources who is subject to call for forest fire control duty or fire watchman employed at the Wisconsin veterans home, and lifeguard, at all times while:

1. Driving or riding in a vehicle, aircraft or boat under circumstances which require hazardous maneuvering or speed in excess of the normal or posted limits in the performance of fire control duties;

2. Engaged in an effort to save lives, recover dead bodies, or protect public or private property;

3. Going to or returning from a fire and while engaged in the suppression of a fire; or

4. Engaged in public demonstration or training exercises provided such demonstration or training exercises are authorized by the appointing authority.

(b) A conservation warden, conservation patrol boat captain, conservation patrol boat engineer, member of the state patrol, state motor vehicle inspector, university of Wisconsin policeman, state university policeman and patrolman, security officer, watchman, member of the state fair police department, special tax agent and investigator employed by the division of criminal investigation of the department of justice at all times while:

1. In the process of making an arrest or investigating any violation or suspected violation of the law or the quelling of a riot or any other violence;

2. Engaged in an effort to save lives, recover dead bodies or protect public or private property;

3. Driving or riding in a vehicle, aircraft or boat under circumstances which require hazardous maneuvering or speed in excess of the normal or posted limits in the performance of law enforcement duties; or

4. Engaged in public demonstration or training exercises provided such demonstration or training exercises are authorized by the appointing authority.

(c) A guard, institution aid, or other employe at the Wisconsin child center, university of Wisconsin hospitals or at state penal and mental institutions, including central state hospital, the state school for boys, the state school for girls and state probation and parole officers, at all times while:

1. In the process of quelling a riot or disturbance or other act of violence;

2. In the process of restraining patients, inmates, probationers or parolees and apprehending runaways or escapees, including probationers and parolees;

3. When injury is occasioned as the result of an act by a patient, inmate, probationer or parolee;

4. In the process of making an arrest or investigating any violation or suspected violation of law pursuant to police powers authorized by s. 46.05 (2) and rules adopted pursuant thereto;

5. Going to or returning from a fire, engaging in the suppression of a fire, evacuating patients or inmates because of a fire or engaging in fire drills; or

6. When disease is contracted as a result of exposure to such disease arising out of the care of inmates or patients.

(d) A drivers' license examiner at all times while examining drivers, conducting road tests or checking motor vehicles.

(e) An engineering aid, engineer or building construction superintendent at all times while:

1. Driving or riding in vehicles which require hazardous maneuvering of extremely slow speed while marking or measuring physical characteristics of highways.

2. Surveying or inspecting within the right of way of highways on which traffic is maintained.

3. Surveying or inspecting on construction sites where heavy equipment is operating.

4. Investigating or inspecting highways, structures or terrain under hazardous conditions.

(4) An employe denied benefits under this section may appeal to the director. The director shall conduct hearings and shall make an order granting or denying the application for benefits or making a determination as to the duration thereof. The director shall adopt rules for the administration of this section.

History: 1971 c 164, 270; 1973 c 333 s. 201m.

### 16.32 Standards of performance and ratings.

(1) In cooperation with appointing authorities the director shall establish a uniform employe work planning and progress evaluation program, incorporating the principles of management by objectives, to provide a continuing record of employe development and, when applicable, to serve as a basis for decision-making on employe pay increases and decreases, potential for promotion, order of layoff and for other pertinent personnel actions.

(2) When an employe becomes physically or mentally incapable of or unfit for the efficient and effective performance of the duties of his position by reason of infirmities due to age, disabilities, or otherwise, the appointing authority shall either transfer him to a position which

requires less arduous duties, if necessary demote him, place him on a part-time service basis and at a part-time rate of pay or as a last resort, dismiss him from the service. The appointing authority may require the employe to submit to a medical or physical examination to determine his fitness to continue in service. The cost of such examination shall be paid by the employing department. In no event shall these provisions affect pensions or other retirement benefits for which the employe may otherwise be eligible.

History: 1971 c 270 ss 66, 81

**16.325 Employe safety programs.** (1) The director shall plan, coordinate and conduct a comprehensive safety and accident prevention program for state employes and shall promulgate rules for the operation of an effective program.

(2) Inspections, investigations and analysis of all state facilities, job sites, equipment, material and work methods may be performed as deemed necessary by the director.

(3) The director is responsible for follow-up investigation to assure correction of all safety orders issued by the department of industry, labor and human relations on state-owned buildings or buildings occupied by state agencies where state employes are working.

History: 1971 c 270.

**16.33 Training programs.** (1) **DECLARATION OF POLICY.** In order to promote efficiency and economy in the operation of the state government, to provide means for the development of maximum proficiency by employes thereof, to establish and maintain the highest standards of performance in the transaction of the state's business, and to install and utilize effectively the best modern practices and techniques which have been developed, tested and proved, it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. The objective of these programs is to develop skills, knowledge, and abilities which will best qualify state employes for effective performance of their official duties, and to retain skilled and efficient state employes in order to continually improve the quality of public service.

(2) **TRAINING PROGRAMS.** The director, pursuant to sub. (3), may authorize appointing authorities to:

(a) Provide off-the-job specialized training courses during working hours to designated employes without loss of pay.

(b) Provide specialized training to qualified persons through educational stipends in lieu of pay, but in no event shall a monthly stipend

exceed the minimum pay of the position for which training is undertaken.

(c) Provide specialized training to designated employes through assignment to research projects, prescribed courses of study, institutes and short courses which are related to the performance of official duties and to pay the cost of required tuition and other necessary fees and expense in connection therewith.

(d) Conduct on-the-job courses of instruction deemed necessary for the efficient performance of departmental functions and to pay honorariums to qualified experts instructing in such courses.

(e) Conduct other training programs consistent with the standards set by this section.

(3) **INITIATION OF PROGRAMS.** Unless otherwise empowered by law, any department desiring to initiate a training program under sub. (2) shall certify to the director that:

(a) Unencumbered appropriated funds are available or board on government operations funds have been so provided;

(b) Training costs estimated to exceed \$500, excluding the compensation of participants, have been included in the budget and approved by the legislature or the board on government operations, and such costs will be encumbered for training purposes on the records of the department;

(c) An agreement has been entered into by the trainee and the appointing authority relative to employment with the state, together with such other terms and conditions as may be necessary under the rules of the director whenever on-the-job trainees are employed; and

(d) The immediate and necessary work requirements of the department will not be seriously handicapped because of such training program.

(4) **GIFTS AND GRANTS.** Nothing in this section shall nullify the acceptance or the special conditions of training programs financed by gifts, grants, bequests and devises from individuals, partnerships, associations or corporations and all subventions from the United States, unless such financing has been refused by the state under s. 16.54 or 20.907.

(5) **ESTABLISH INTERNSHIPS.** The director shall establish in the classified service in-service training internships designed to give rigorous training in public service administration for periods not to exceed 3 years under the direct supervision of experienced administrators.

(6) **COOPERATE FOR SCHOLARSHIP LOANS.** To stimulate the interest of qualified students of exceptional merit in government career service, the director shall cooperate with the board of regents of the university of Wisconsin system in providing opportunities for recipients of public

service scholarship loans to secure employment under the internship plan.

(7) **TUITION REFUND PROGRAM.** The director may establish by rule in the classified service a tuition refund program to supplement departmental training, to encourage employe job-related development and, upon satisfactory completion of training under this program to refund to the employe, an amount not to exceed the cost of tuition and necessary fees.

(8) **BUREAU FUNCTIONS.** The bureau may conduct off-the-job training programs and in cooperation with the appointing authorities shall coordinate state-sponsored training programs.

(9) **RULES.** The director shall promulgate rules for the implementation of this section.

History: 1971 c. 100 s. 23; 1971 c. 270 ss. 56, 91

### 16.34 State employes merit award board.

(1) **DUTIES.** The state employes merit award board shall:

(a) Formulate, establish and maintain a plan or plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employes promoting efficiency and economy in the performance of any function of state government;

(b) Appoint departmental or divisional committees to analyze and review suggestions and accomplishments of state employes submitted for consideration under such plan or plans, and make recommendations thereon to the board;

(c) Make and render merit awards to or for the benefit of state employes nominated to receive them in accordance with such plan or plans.

(2) **PERSONNEL, FACILITIES AND EQUIPMENT.** The department shall appoint, under the classified service, a secretary and such other employes as are necessary to carry out the board's duties, and shall provide such facilities and equipment as the board requires for the proper performance of its work. The board may request and shall receive from any state department such assistance as it requires.

(3) **AWARDS.** The board may determine the nature and extent of the merit awards to be made under this section which may include, but shall not be limited to, the following:

(a) Certificates, medals or other insignia which shall be in such form and shall be awarded at such times as the board determines;

(b) Cash awards, which shall be of such amount and shall be payable at such times as the board determines.

(4) **RULES.** The board may promulgate rules governing the operation of any plan or plans established under this section, the eligibility and qualifications of state employes participating

therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for merit awards, and the kind, character and value of such awards, and such other rules as are necessary for the proper administration of this section or for the accomplishment of the purposes thereof.

(5) **INCENTIVE AWARD PROGRAM.** The board may, upon recommendation of an appointing authority, make special incentive awards to individuals or groups of employes within the state service for meritorious suggestions and accomplishments which promote efficiency and economy in the performance of the functions of state government. It is the intent of the legislature that this subsection be interpreted liberally to provide incentive for improved management within the state service. Savings resulting from suggestions made under this program shall be specifically enumerated in the subsequent budget requests for the agency within which the improvement is made. Awards made under this program to individuals or groups of employes shall equal one per cent of the annual dollar savings resulting from such suggestions or accomplishments, but shall not exceed \$1,000.

History: 1971 c. 270 s. 87.

### 16.35 Political activities; public office. (1)

No person holding a position in the classified civil service may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while on state time or engaged in his official duties as an employe. No person may orally solicit or by letter transmit any solicitation to a state office or be in any manner concerned in soliciting any assistance, subscription, or support for any partisan political party or purpose from any person holding any position in the classified civil service while on state time or engaged in his official duties as an employe. No person holding any position in the classified civil service may during the hours when he is on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor may he engage in any political activity when not on duty to such an extent that his efficiency during working hours will be impaired or that he will be tardy or absent from his work. Any violation of this section is adequate grounds for dismissal.

(2) If a person in the classified service declares his intention to run for partisan political office he shall be given a leave of absence for the duration of the election campaign and if elected

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he shall separate from the classified service when he assumes the duties and responsibilities of such office.

(3) A person who separates from the classified service to fill an elective position shall have reinstatement privileges for 3 years following termination from the classified service or for one year following termination from the elective position, whichever is longer.

(4) A person in the classified service may be granted upon concurrence by his appointing authority a leave of absence to participate in partisan political campaigning.

(5) Persons on leave from the classified service under subs. (2) and (4) shall not be subject to the restrictions of sub. (1), except as they apply to the solicitation of assistance, subscription or support from any person holding any position in the classified service.

History: 1971 c. 270 s. 82; 1973 c. 334.

**16.36 Invalid appointments.** Any person employed or appointed contrary to this subchapter, or to the rules established thereunder, shall be paid by the appointing authority so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any service performed under such appointment or employment, or attempted appointment or employment, or in case no compensation is agreed upon, the actual value of such services and any expenses incurred in connection therewith, and shall have a cause of action against such appointing authority, for such sum and for the costs of the action. No appointing authority shall be reimbursed by the state for any sums so paid or recovered in any such action.

History: 1971 c. 270 s. 80.

**16.37 Record of employes and certification of payrolls.** (1) The director shall keep in the office an official roster of all permanent classified employes which shall include classification titles, pay and employment status changes and appropriate dates thereof.

(2) Neither the secretary of administration nor other fiscal officer of this state shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state to pay any compensation to any person in the classified service of the state unless an estimate, payroll or account for such compensation, containing the names of every person to be paid, bears the certificate of the appointing authority that the persons named in such estimate, payroll or account have been appointed, employed, reinstated or promoted as required by law and the rules established thereunder and that the pay is

in accordance with the law, compensation plan and rules of the director then in effect.

(3) Any person entitled to be certified as described in sub. (2), as having been appointed or employed in pursuance of law and of the rules pursuant thereto, and refused such certificate, may maintain an action of mandamus to compel the appointing authority to issue such certificate.

(4) Any sums paid contrary to this section may be recovered from any appointing authority making such appointments in contravention of law or of the rules made pursuant thereto, or from any appointing authority signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, or from the sureties on the official bond of any such appointing authority, in an action in the circuit court of any county within the state, maintained by the director or the board or by any member thereof, or by a citizen resident therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city or county tax within this state. All moneys recovered in any action brought under this section when collected, shall be paid into the state treasury except that if a citizen taxpayer is plaintiff in any such action he shall be entitled to receive for his own use the taxable cost of such action and 5% of the amount recovered as attorney's fees.

History: 1971 c. 270 ss. 67, 68; 1973 c. 12.

**16.38 Misdemeanors; how punished.** (1) **OBSTRUCTION OR FALSIFICATIONS OF EXAMINATIONS.** (a) Any person who wilfully, by himself or in cooperation with one or more persons, defeats, deceives or obstructs any person in respect of his rights of examination or registration under this subchapter or any rules prescribed pursuant thereto, or

(b) Who wilfully, or corruptly, falsely marks, grades, estimates or reports upon the examination or proper standing of any person examined, registered or certified, pursuant to this subchapter, or aids in so doing, or

(c) Who wilfully or corruptly makes any false representations concerning the same, or concerning the person examined, or

(d) Who wilfully or corruptly furnishes any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any persons so examined, registered or certified, being appointed, employed or promoted, or

(e) Who personates any other person, or permits or aids in any manner any other person to personate him in connection with any examination, registration, application or request to be examined or registered, shall for each offense be guilty of a misdemeanor.

**(2) PROHIBITED APPOINTMENTS.** Whoever, after a rule has been duly established and published, makes an appointment to office or selects a person for employment, contrary to such rule, or wilfully refuses or neglects otherwise to comply with, or to conform to, this subchapter, or violates any of such provisions, shall be guilty of a misdemeanor. If any person is convicted under this subsection, any public office which such person may hold shall by force of such conviction be rendered vacant, and such person shall be incapable of holding public office for a period of 5 years from the date of such conviction.

**(3) PENALTY.** Misdemeanors under this section are punishable by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 2 years or both.

**(4) RIGHTS OF EMPLOYE.** Any employe who has been removed, demoted or reclassified, from or in any position or employment in contravention or violation of this subchapter, and who has been reinstated to such position or employment by order of the board or any court upon review, shall be entitled to compensation therefor from the date of such unlawful removal, demotion or reclassification at the rate to which he would have been entitled by law but for such unlawful removal, demotion or reclassification, and such employe shall be entitled to an order of mandamus to enforce the payment or other provisions of such order.

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

History: 1971 c. 270ss 64, 75, 84 to 86.

### SUBCHAPTER III

#### FINANCE

**16.40 Department of administration, duties, powers.** The department of administration shall:

**(1) PREPARE BUDGET.** Discharge all duties in connection with the compilation of the biennial state budget report imposed by ss. 16.42 to 16.46.

**(2) ATTEND FINANCE COMMITTEE.** Attend all public hearings of the joint committee on finance and such executive meetings as the committee may desire, answer questions and give information called for by the committee relative to the financial operations of the state and its several departments.

**(3) FINANCIAL STATEMENT.** Prepare at the end of each fiscal year not later than October 15, a condensed, and popular account of the finances of the state, showing the sources of the state's revenue and the purposes of its expenditures, including a comparison with the prior year; prepare at the end of each fiscal year not later than October 15, a statement of the condition of the general fund showing the cash balance, the accounts receivable, the accounts payable and the continuing unexpended and unencumbered appropriation balances; and prepare not earlier than January 1 nor later than February 1 in each year a tentative statement of the estimated receipts and disbursements of the general fund for the biennium in progress, showing also the estimated condition of the general fund at the end of the current biennium. A copy of each of such statements shall be filed in the legislative reference bureau and shall be sent to each member of the legislature.

**(4) FURNISH INFORMATION.** Furnish such other information regarding the finances of the state and the financial operations of departments as may be called for by the governor, the governor-elect, the legislature or either house thereof, or any member thereof.

**(5) BOOKKEEPING FORMS.** Prescribe the forms of accounts and other financial records to be used by all departments. Such accounts shall be as nearly uniform as is practical, and as simple as is consistent with an accurate and detailed record of all receipts and disbursements and of all other transactions affecting the acquisition, custodianship and disposition of value. The secretary may call upon the state auditor for advice and suggestions in prescribing such forms.

**(6) TAKE TESTIMONY.** In the discharge of any duty imposed by law, administer oaths and take testimony and cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit courts.

**(7) COLLECT REVENUE INFORMATION.** Collect from any available source and correlate information concerning any and all anticipated state revenues.

**(8) COLLECT INFORMATION ON DISBURSEMENTS.** Collect and correlate information from all state departments concerning any departmental disbursements and the proper time thereof.

**(9) FORECAST REVENUES AND EXPENDITURES.** Forecast all revenues and expenditures of the state.

**(10) DETERMINE MINIMUM CASH BALANCES.** Determine the minimum cash balances needed in operating banks at all times to meet the operating requirements of all state departments.

**(11) ADVISE INVESTMENT BOARD DIRECTOR ON SURPLUS MONEYS.** Advise the executive director of the investment board daily concerning surplus moneys available for investment from each of the various state funds.

**(12) ADVISE INVESTMENT BOARD DIRECTOR ON CASH NEEDS.** Advise the executive director of the investment board concerning the date when invested funds will be required in the form of cash. Said director shall furnish such reports of investments as may be required by the department of administration.

**(13) COOPERATE IN IMPROVEMENTS OF STATE FUND MANAGEMENT.** Cooperate with the executive director of the investment board, the state treasurer, the department of revenue and other revenue departments for the purpose of effecting improvements in the management and investment of state funds.

History: 1971 c. 125

**16.41 Departmental accounting, information, aid.** (1) All departments shall keep their accounts and other financial records as prescribed by the secretary under s. 16.40 (5), except as otherwise specifically directed by law. All such departments shall also furnish to the secretary all information relating to their financial transactions which he may call for pursuant to this subchapter and shall render such assistance in connection with the preparation of the state budget report and the budget bill and in auditing accounts, as the secretary or the governor may require.

(2) The secretary and his duly authorized employes shall have free access to all financial accounts of every state department, and each department shall assist the secretary in preparing estimates of receipts and expenditures for inclusion in the state budget report.

(3) Upon request of the secretary all state departments shall furnish such information concerning anticipated revenues and expenditures as may be required by him for effective control of state finances.

**16.42 Departmental requests.** (1) All departments, other than the legislature and the courts, prior to each budget period on the date and in the form and content prescribed by the department shall prepare and forward to the department the following program and financial information:

(a) A clear statement of purpose for each program or subprogram;

(b) Clear statements of specific objectives to be accomplished by specific dates;

(c) Proposed plans to implement the objectives and the estimated resources needed to carry out the proposed plans;

(d) A statement of legislation required to implement proposed program and financial plans;

(e) A clear statement of the methods for evaluation of results of the program services, including the information necessary for evaluation purposes; and

(f) All fiscal or other information relating to such departments that the secretary or the governor requires on forms prescribed by the secretary.

(2) The secretary may make budget estimates for all such departments which fail to furnish by the specified date the information required under sub. (1).

History: 1971 c. 125, 215; 1973 c. 12, 333.

**16.425 Summary of tax exemption devices.** (1) **DECLARATION OF POLICY.**

Because state policy objectives are sought and achieved by both governmental expenditures and tax exemption, and because both have an impact on the government's capacity to lower tax rates or raise expenditures, both should receive regular comprehensive review by the governor and the legislature in the budgetary process. This section seeks to facilitate such comprehensive review by providing for the generation of information concerning tax exemptions and other similar devices comparable to expenditure information.

(2) **DEFINITION.** For the purposes of this section "tax exemption device" means any tax provision which exempts, in whole or in part, certain persons, income, goods, services, or property from the impact of established taxes, including, but not limited because of failure of enumeration, to those devices known as tax deductions, tax allowances, tax exclusions, tax credits and tax exemptions.

(3) **REPORT ON TAX EXEMPTION DEVICES.** The department of revenue shall in each even-numbered year on the date prescribed for it by the secretary, furnish to the secretary a report detailing the approximate costs in lost revenue, the policy purposes and to the extent possible, indicators of effectiveness in achieving such purposes, for all state tax exemption devices, including those based on the federal internal revenue code, in effect at the time of the report. The report in 1974 need relate only to ch. 71 tax exemption devices. The report in 1976 need relate only to chs. 71 and 77 tax exemption

devices. The report in 1978 need relate only to chs. 71, 72 and 77 tax exemption devices. The report in 1980 need relate only to chs. 71, 72, 76 and 77 tax exemption devices. The report in 1982 need relate only to chs. 70, 71, 72, 76 and 77 tax exemption devices. The report shall be prepared in such a manner as to facilitate the making of comparisons with the information reported in s. 16.46 (1) to (6).

History: 1973 c 90

**16.43 Budget compiled.** The secretary shall compile and submit to the governor-elect, not later than November 20 of each even-numbered year, a compilation giving all of the data required by s. 16.46 to be included in the state budget report, except the recommendations of the governor and the explanation thereof.

**16.44 Budget hearings.** After the filing of the compilation required under s. 16.43, the governor or governor-elect shall consider all requests and all other information which may be of value in understanding the issues and problems to be dealt with in the executive budget. He may hold such public hearings as he determines are necessary to gather further information from departments, interested citizens and others. The department of administration and all other departments shall cooperate fully with the governor or governor-elect in providing information and analyses as requested.

History: 1973 c 333

**16.45 Budget message to legislature.** In each regular session of the legislature, the governor shall deliver his budget message to the 2 houses in joint session assembled. Unless a later date is requested by the governor and approved by the legislature in the form of a joint resolution, the budget message shall be delivered on or before the last Tuesday in January. With such message the governor shall transmit to the legislature the biennial state budget report and the executive budget bills together with suggestions for the best methods for raising the needed revenues.

History: 1971 c. 2; 1973 c 333

**16.46 Biennial budget, contents.** The biennial state budget report shall be prepared by the secretary, under the direction of the governor, and a copy of a budget-in-brief thereof shall be furnished to each member of the legislature on the day of the delivery of the budget message. The biennial state budget report shall be furnished to each member of the legislature on or about February 15 of each odd-

numbered year and shall contain the following information:

(1) A summary of the actual and estimated receipts of the state government in all operating funds under existing laws during the current and the succeeding bienniums, classified so as to show the receipts by funds, organization units and sources of income;

(2) A summary of the actual and estimated disbursements of the state government from all operating funds during the current biennium and of the requests of departments and the recommendations of the governor for the succeeding biennium;

(3) A statement showing the condition of all operating funds of the treasury at the close of the preceding fiscal year and the estimated condition at the close of the current year;

(4) A statement showing how the total estimated disbursements during each year of the succeeding biennium compare with the estimated receipts, and the additional revenues, if any, needed to defray the estimated expenses of the state;

(5) A statement of the actual and estimated receipts and disbursements of each department and of all state aids and activities during the current biennium, the departmental estimates and requests, and the recommendations of the governor for the succeeding biennium. Estimates of expenditures shall be classified to set forth such expenditures by funds, organization units, appropriation, object and activities at the discretion of the secretary;

(6) Any explanatory matter which in the judgment of the governor or the secretary will facilitate the understanding by the members of the legislature of the state financial condition and of the budget requests and recommendations.

(7) The report of the department of revenue prepared under s. 16.425, together with the purposes and approximate costs in lost revenue of each new or changed tax exemption device provided in the proposed budget. This information shall be integrated with the rest of the information in this section in such a manner as to facilitate to the fullest extent possible, direct comparisons between expenditure information and tax exemption device information, as defined in s. 16.425.

History: 1971 c 125; 1973 c. 90

**16.461 Biennial budget, summary of funds.** After the governor has submitted all budget recommendations, the secretary shall prepare a summary of the recommendations of all funds, to be distributed to the members of the legislature.

**16.47 Budget bill.** (1) The executive budget bill or bills shall incorporate the governor's recommendations for appropriations for the succeeding biennium. Each appropriation in each bill except those for highway construction and aids to local units may be divided into 3 allotments: personal services, other operating expenses and capital outlay or other meaningful classifications, or appropriations may be made in total for all expense. The appropriation method shall in no way affect the amount of detail or manner of presentation which may be requested by the joint committee on finance. Appropriation requests may be divided into 3 allotments: personal services, other operating expenses and capital outlay or such other meaningful classifications as may be approved by the joint committee on finance. Immediately after the delivery of the budget message, the bills shall be introduced without change into either house by the joint finance committee and when introduced shall be referred to that committee.

(2) No bill affecting the general fund and containing an appropriation or increasing the cost of state government or decreasing state revenues in an annual amount exceeding \$10,000 shall be passed by either house until the general fund budget bill has passed both houses; except that the governor or the joint committee on finance may recommend such bills to the presiding officer of either house, in writing, for passage and the legislature may enact them, and except that the senate or assembly committee on organization may recommend to the presiding officer of its respective house any such bill not affecting state finances by more than \$100,000 biennially. Such bills shall be accompanied by a statement to the effect that they are emergency bills recommended by the governor, the joint committee on finance, or the senate or assembly committee on organization. Such statement by the governor or joint committee on finance shall be sufficient to permit passage prior to the general fund budget bill. Such statement by the senate or assembly committee on organization shall be effective only to permit passage by its respective house.

History: 1971 c 125

**16.475 Review in even-numbered years.** If the governor determines that the implementation of budget priorities or the fiscal condition of the state requires adjustments in expenditures or revenues, he shall, unless a later date is requested by the governor and approved by the legislature in the form of a joint resolution, no later than the 2nd week of the legislative session in the even-numbered year, submit his recommendations in bill form to the joint committee on finance which shall introduce the bill without change in either

house. Upon introduction, the bill shall be referred to that committee.

History: 1971 c 125; 1973 c 90, 333.

**16.48 Recommendation of joint finance committee on fiscal policy.** At any time during the regular session but not later than 10 days after the passage by both houses of the budget bill relating to the general fund, the joint committee on finance shall report to the legislature in the form of a joint resolution, to be introduced in either house, its recommendations as to fiscal policy concerning state revenues and appropriations for the next biennium. Such information shall include: The estimated condition of the general fund on the succeeding July 1; the estimated general fund revenues during the ensuing biennium; the total amount of appropriations in the budget bills; the estimated condition of the general fund at the end of the ensuing biennium; and such other information as the committee deems pertinent.

**16.49 Lobbying by officers.** No department or any officer or employe thereof shall present any request for increased appropriations or any explanation, argument or appeal in support of any such request, except at a hearing of the governor or the joint committee on finance or at the request of either house or any committee thereof. Nor shall any department, officer or employe attempt to procure an increased appropriation other than through the regular and orderly presentation of budget requests in the manner provided in this chapter or to the governor in emergencies.

**16.50 Departmental estimates.** (1) EXPENDITURES. Each department except the legislature and the courts shall prepare and submit to the secretary an estimate by quarters of the amount of money which it proposes to expend upon each of its divisions, activities, functions and programs. The secretary may waive the submission of estimates of other than administrative expenditures from such funds as he determines. Estimates shall be prepared in such form and at such times as the secretary requires. Revised and supplemental estimates may be presented at any time under rules to be prescribed by the secretary.

(2) ACTION THEREON BY SECRETARY. The secretary shall examine each such estimate to determine whether appropriations are available therefor and can be made without incurring danger of exhausting such appropriations before the end of the appropriation period and whether there will be sufficient revenue to meet such contemplated expenditures. The secretary also shall examine each estimate to assure as nearly

as possible that the proposed plan of program execution reflects the intentions of the joint committee on finance, legislature and governor, as expressed by them in the budget determinations. If satisfied that such estimate meets these tests, he shall approve the same; otherwise he shall disapprove the same, in whole or in part, as the facts require. If the secretary is satisfied that an estimate for any period is more than sufficient for the execution of the normal functions of a department, he may modify or withhold such estimates. It is the intent of the legislature that this section be strictly construed by the secretary to the end that such budget determinations and policy decisions reflected by such determinations be implemented to the fullest extent possible within the concepts of proper management.

**(3) LIMITATION ON INCREASE OF FORCE AND SALARIES.** No department, except the legislature or the courts, may increase the pay of any employe, expend money or incur any obligation except in accordance with the estimate submitted to the secretary as provided in sub. (1) and which is approved by the secretary or the governor. No additional positions, above the number authorized through the biennial budget or budget review process may be granted without the approval of the board on government operations, except for positions created from funds received under s. 16.54 or 20.001 (2) (b). The secretary shall submit a quarterly report to the board on government operations of any additional positions created under s. 16.54 or 20.001 (2) (b). No pay increase may be approved unless it is at the rate or within the pay ranges prescribed in the compensation plan or as published in a collective bargaining agreement under subch. V of ch. 111.

**(4) APPEALS TO GOVERNOR.** Any department feeling itself aggrieved by the refusal of the secretary to approve any estimate, or any item therein, may appeal from his decision to the governor, who, after a hearing and such investigation as he deems necessary, may set aside or modify such decision.

**(5) DISBURSEMENTS.** The secretary shall not draw his warrant for payment of any expenditures incurred by any department for which the approval of the secretary or the governor is necessary under this section, unless such expenditure was made in accordance with an estimate submitted to and approved by the secretary or by the governor.

History: 1971 c. 270; 1973 c. 333

**16.51 Department of administration; preauditing and accounting; additional duties and powers.** The department of administration in the discharge of preauditing and accounting functions shall:

**(1) SUGGEST IMPROVEMENTS.** Suggest plans for the improvement and management of the public revenues and expenditures.

**(4) DIRECT COLLECTION OF MONEYS.** Except as otherwise provided by law, direct and superintend the collection of all moneys due the state.

**(5) KEEP AND STATE ACCOUNTS.** Keep and state all accounts in which the state is interested as provided in s. 16.52.

**(6) AUDIT CLAIMS.** Examine, determine and audit, according to law, the claims of all persons against the state as provided in s. 16.53.

**(7) AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS.** Receive, examine, determine and audit claims, duly certified and approved by the department of health and social services, from the county clerk of any county in behalf of such county, which are presented for payment to reimburse such county for certain expenses incurred or paid by it in reference to all matters growing out of actions and proceedings involving prisoners in state prisons, as defined in s. 53.01, including such prisoners transferred to central state hospital for observation or treatment, when such proceedings are commenced in counties in which such prisons are located by a district attorney or by the prisoner as a post conviction remedy or a matter involving his status as a prisoner. Expenses shall only include such amounts as were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

History: 1971 c. 125

**16.52 Accounting.** The department of administration shall:

**(1) KEEP SEPARATE ACCOUNTS.** Keep in its office separate accounts of the revenues and funds of the state, and of all moneys and funds received or held by the state, and also of all encumbrances, expenditures, disbursements and investments thereof, showing the particulars of every encumbrance, expenditure, disbursement and investment.

**(2) REVENUE ACCOUNTS.** Place revenue estimates on the books of accounts and credit actual receipts against them as of the last day of each quarter. Any receipts applying to a prior fiscal year received between August 1 and the next succeeding July 31 shall be credited by the secretary to the fiscal year in which said August 1 falls. Except in the case of program revenue and continuing appropriations, any refund of a disbursement to a general purpose revenue appropriation, applicable to any prior fiscal year, received between said dates shall not be credited to any appropriation but shall be considered as a nonappropriated receipt.

(3) **KEEP APPROPRIATION ACCOUNTS.** Keep separate accounts of all appropriations authorizing expenditures from the state treasury, which accounts shall show the amounts appropriated, the amounts allotted, the amounts encumbered, the amounts expended, the allotments unencumbered and the unallotted balance of each appropriation.

(5) **ENCUMBRANCES AND CHARGES FOR PRIOR FISCAL YEAR.** (a) On July 31 of each fiscal year all outstanding encumbrances entered for the previous fiscal year shall be transferred by the secretary as encumbrances against the appropriation for the current fiscal year, and an equivalent prior year appropriation balance shall also be forwarded to the current year by the secretary. Payments made on previous year encumbrances forwarded shall be charged to the current fiscal year. All other charges incurred during any previous fiscal year, and not evidenced by encumbrances, which are presented for payment between August 1 in any fiscal year and July 31 in the next succeeding fiscal year shall be entered as charges in the fiscal year in which said August 1 falls; but such charges shall not be paid if they exceed the unencumbered appropriation balance as of July 31 of the fiscal year preceding the year of payment. This paragraph may be waived in whole or in part by the secretary with the advice of the state auditor on other than general purpose revenue appropriations.

(b) After July 31, departments shall be allowed not to exceed one month for reconciling July 31 prior year balances, correcting errors and certifying necessary adjustments to the central accounting office. No prior year corrections shall be permitted after August 31, it being incumbent upon all state departments to completely reconcile their records with the department of administration by said date. Each department shall delegate to some individual the responsibility of reconciling its accounts as herein provided and shall certify his name to the secretary. As soon as a reconciliation has been effected, the department shall advise the secretary in writing of such fact and shall forward to him a copy of such reconciliation. If any department fails to reconcile its accounts as provided in this subsection, the person responsible for such reconciliation shall not be entitled to any further compensation for salary until such reconciliation is effected. With the approval of the state auditor any department which relies extensively on central accounting records may be permitted to file a statement of agreement in lieu of a reconciliation on all or part of its accounts.

(c) In addition to the annual reconciliation of accounts required by par. (b), the secretary may request any state agency to reconcile its accounts

with those of the department at such other times as he deems necessary. The manner and form of the reconciliation shall be determined by the secretary.

(6) **PRIOR APPROVAL OF PURCHASE ORDERS, ETC.** (a) All purchase orders, contracts, or printing orders shall, before any liability is incurred thereon, be submitted to the secretary for his approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order shall govern the fiscal year chargeable. Upon such approval, the secretary shall immediately encumber all contracts or orders.

(b) Pursuant to s. 16.74 and subject to ss. 16.53 and 20.903 local purchases may be made or miscellaneous expenses incurred by any state department.

(c) Any department feeling itself aggrieved by the refusal of the secretary to approve any proposed encumbrance or payment under this section or s. 16.53 may appeal from his decision to the governor, who, after a hearing and such investigation as he deems necessary, may set aside or modify such decision.

(7) **PETTY CASH FUND.** A petty cash fund in an amount not exceeding \$1,000 from the general program operations appropriations may be established for such departments as the secretary determines. The operation and maintenance of petty cash funds and the character of expenditures therefrom shall be prescribed by the secretary.

(8) **REFUND ACCOUNTS.** The secretary shall establish rules permitting state departments, authorized to do so by the governor, to issue checks to refund amounts not to exceed \$5 each. The secretary may establish petty cash funds for such departments for the purpose of paying refunds.

(9) **SECRETARY TO REQUIRE ACCOUNTS OF STATE MONEY, ETC.** The secretary shall require all persons receiving money or securities or having the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him; and all such persons shall render such statements at such time and in such form as he shall require.

History: 1971 c. 125, 261; 1973 c. 243.

#### **16.525 State aid recipients' accounting.**

Every association, society, institute or other organization that receives aid in any form through appropriations from the state shall report to the department of administration in August of each year. Such annual report shall contain a detailed statement of all receipts and expenditures of such association, society, institute or organization for the fiscal year concluded on the preceding June 30, and such portions as

are of special importance may be published in the annual report of the department of administration under s. 15.04 (4).

**16.53 Preaudit procedure.** The department of administration shall preaudit claims in accordance with the following procedures:

(1) **CLAIMS AGAINST STATE.** (a) *Audit.* The secretary is responsible for auditing claims against the state, when payment thereof out of the state treasury is authorized by law. Such audit may be on a sample basis in accordance with generally accepted auditing standards. The secretary may delegate in writing the audit function to the head of any department under terms and standards established by the secretary. The delegation shall be by mutual agreement and notice of the agreement shall be reported to the state auditor. If the secretary finds, through sample auditing, review of procedures, controls and any other audit techniques he deems necessary, that the delegated function is not being performed according to the established auditing standards, he shall in writing withdraw the delegated authority.

(b) *Payrolls.* Payrolls, to be entitled to audit, shall be certified by the proper officers who shall set forth the nature of the services rendered by each person named therein.

(c) *Other claims.* Unless otherwise provided by law, all other claims to be entitled to audit shall:

1. Specify the nature and particulars thereof on an official or original invoice.

2. Conform with statutory provisions and be necessarily incurred in the performance of duties required by the state service.

4. Include the claimant's affidavit, or statement under the penalties of perjury, setting forth that all items of traveling expenses were incurred in the performance of duties required by the public service, and that the amount charged for transportation or for other expenses incident to travel was actually paid out and that no part of such transportation was had upon a free pass or otherwise free of charge. The blank form of such travel voucher shall be prescribed by the secretary.

6. Exclude items of expenditure incurred while traveling outside the state by any officer or employe of any state department or institution thereof unless in the discharge of his duties required by the public service.

7. Exclude out-of-state expenses of an officer or employe of any state department or institution except upon the order of the head of that department or institution. The department or institution head may determine whether such requests shall be made individually or periodically. The governor may require periodic reports on

out-of-state travel made by the personnel of each state agency with such detail as he may desire. The governor, by executive order, may require his prior approval for out-of-state travel by members of any state department or institution of the executive branch.

9. Be approved by the proper state officer.

10. Exclude items of expenditure incurred by an employe of any state department while permanently located outside the state unless prior approval of the department of administration has been obtained.

(ca) *Supervision of expenditures.* All departments shall diligently review and supervise the travel expenditures of their employes and may adopt reasonable rules governing such expenditures. Each claim shall be approved by the employe's department head or his authorized representative. The approval shall represent the concurrence with the accuracy, necessity and reasonableness of each expense. Claims so approved shall be audited by the department of administration in accordance with par. (a).

(cm) *Advancement of travel expenses.* The head of a state agency may, by presenting proper vouchers to the department of administration, advance money for travel expenses to employes. Travel expenses shall be advanced only when the estimated expense is expected to exceed \$50 and the advance shall not exceed 80% of the estimated expense.

(d) *Salaries, etc., when payable.* 1. The secretary of administration, with the approval of the board on government operations, shall fix the time and frequency for payment of salaries due elective and appointive officers and employes of the state government. As herein determined said salaries shall be paid either monthly, semi-monthly or for each one or 2-week period.

2. In order to utilize modern accounting methods in processing payrolls, the department may convert and adjust salaries of all state officers and employes so that they are payable in equal payments throughout the year. To this end the secretary may promulgate rules necessary to administer this section. The secretary also may promulgate rules pertaining to the administration of garnishment actions under s. 267.23 including rules superseding s. 267.18 (1) (b).

(3) **EXAMINATION OF CLAIMANTS.** The secretary may examine under oath the claimant or any other person relative to any claim presented against the state, and may require oral or written answers as to any facts relating to the justness of the claim, or as to the liability of the state.

(4) **AUDIT ORDER INDORSED ON CLAIM; RECORD.** The order of the secretary auditing any claim shall be indorsed on or annexed to such claim, shall specify the amount allowed, the fund

from which the same is payable, and the law that authorizes payment of such claim out of the treasury; and said order with the claim and all evidence relative thereto shall be filed and preserved in his office.

(5) **WARRANTS; WHAT TO SPECIFY.** The secretary shall draw his warrant on the state treasurer payable to the claimant for the amount allowed by him upon every claim audited under sub. (1), specifying from what fund to be paid, the particular law which authorizes the same to be paid out of the state treasury, and at the secretary's discretion the post-office address of the payee; and he shall not credit the treasurer for any sum of money paid out by him otherwise than upon such warrants.

(6) **WARRANTS; SIGNATURES.** Whenever it is impracticable for the secretary to personally sign warrants issued on the state treasury, his name may be signed thereto by one or more persons in his department designated by him or by the use of a mechanical device adopted by him for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in his office, shall honor warrants so signed, the same as if signed in person by the secretary, until such authority is revoked in writing.

(7) **CERTIFICATION OF BOARDS, EVIDENCE OF CORRECTNESS OF ACCOUNT.** The certificate of the proper officers of the board of regents of the university of Wisconsin system, the department of health and social services, or the proper officers of any other board or commission organized or established by the state, shall in all cases be evidence of the correctness of any account which may be certified by them.

(8) **CLAIMS REQUIRING LEGISLATIVE ACTION.** All claims of every kind against the state requiring legislative action shall be made in duplicate, as provided in sub. (1) and shall be filed in the office of the secretary. The secretary shall examine the same, see if ordered by competent authority and, if properly made, designate the fund to which they are chargeable. The secretary shall as soon as practicable refer such claims to the claims board for its findings of fact, its conclusions and its report thereon to the legislature for action. Whenever a bill appropriating money for a claim becomes a law the secretary, before drawing his warrant therefor on the treasurer, shall see that the proper account on which such appropriation is based is filed in his office.

(9) **TRANSFER OF FUNDS APPROPRIATED.** Whenever an appropriation has been made from the general fund in the state treasury to any other fund therein, the secretary in his discretion may withhold the transfer of such appropriation or

any part thereof from the general fund until the same is required to pay claims duly audited.

History: 1971 c 100 s. 23; 1971 c 215, 261.

Cross reference: See 103.39 (2) for provisions for payment of wages and unused vacation allowances in the event of death of a state employe.

**16.535 Reimbursement for travel expenses.** (1) **DEFINITIONS.** In this section, unless the context otherwise requires:

(a) "Employe" means any officer or employe of the state and any legislator or board member entitled to actual, reasonable and necessary expenses.

(b) "Reasonable" means not extreme or excessive.

(2) **LODGING.** All reimbursement claims for lodging must be accompanied by a receipt.

(3) **MEALS.** Employes shall be reimbursed for all reasonable amounts expended for their own meals incurred in the performance of their official duties. Any department may establish maximum amounts to be expended for meals. Receipts for meals are not required except for any unusual amount, which must be accompanied by a receipt and full explanation of the reasonableness of such expense.

(4) **SPECIAL ALLOWANCE EXPENSES.** Employes shall be reimbursed for the following expenses when traveling on state business:

(a) For reasonable laundry, cleaning or pressing service, if away from home more than 3 days. Charges shall be limited to one cleaning, one pressing and one laundry charge per calendar week.

(b) For tips for meals and taxis, at the maximum rate of 15% of the meal charge or taxi fare.

(c) For tips for portorage, not exceeding \$1 for each stay at a hotel or motel.

(5) **EXPENSES IN AN EMPLOYEE'S HEAD-QUARTER CITY.** Employes who are headquartered in a city in which the expense occurs shall be reimbursed for their actual, reasonable and necessary expenses incurred in the discharge of official duties only on the approval of the head of the employe's agency. This does not apply to travel between an employe's residence and the city in which he is headquartered, which shall not be reimbursable.

(6) **TRANSPORTATION.** Employes shall be reimbursed for their actual transportation expenses when traveling in the performance of their official duties, subject to the following limitations:

(a) *Scheduled air travel.* Reimbursement for air travel shall be limited to the fare for the lowest jet class available. Only if other classes are not available or on the approval of the department head or his representative shall an employe travel first class. If no other class is

available, the employe shall obtain a statement from the carrier that a lower class was not available. Employes shall submit tax exemption certificates when purchasing an airline ticket, and all reimbursement for air travel shall be at the tax exempt rate.

(b) *Train.* Travel by train shall be limited to coach unless overnight, where accommodations should be limited to roomette.

(c) *Reimbursement.* All claims for reimbursement of transportation expense, except for taxicabs and airport limousines, must be accompanied by a receipt.

(7) **APPROVAL.** Each voucher claim shall be approved by the head of the employe's department or agency or his delegated authority. Such approval shall represent concurrence with the necessity and reasonableness of each expense. Out-of-state travel and expenses in an employe's headquarter city must be approved by the head of the department or agency. Such approval shall accompany the travel voucher. The expense voucher shall be audited by the agency financial office and then submitted to the department of administration for final audit before payment.

**16.54 Acceptance of federal funds.** (1) Whenever the United States government shall make available funds for the education, the promotion of health, the relief of indigency, the promotion of agriculture or for any other purpose other than the administration of the tribal or any individual funds of Wisconsin Indians, the governor on behalf of the state is authorized to accept the funds so made available. In exercising the authority herein conferred, the governor may stipulate as a condition of the acceptance of the act of congress by this state such conditions as in his discretion may be necessary to safeguard the interests of this state.

(2) Whenever funds shall be made available to this state through an act of congress and acceptance thereof as provided in sub. (1), the governor shall designate the state board, commission or department to administer any of such funds, and the board, commission or department so designated by the governor is authorized and directed to administer such fund for the purpose designated by the act of congress making an appropriation of such funds, or by the department of the United States government making such funds available to this state.

(4) Any board, commission or department of the state government designated to administer any such fund, shall, in the administration of such fund, comply with the requirements of the act of congress making such appropriation and with the rules and regulations which may be prescribed by the United States government or

by the department of the federal government making such funds available.

(5) Whenever any agency of the federal government shall require that as a condition to obtaining federal aid the state agency entrusted with the administration of such aid shall submit a budget, plan, application, or other project proposal, then the budget, plan, application or proposal shall, before it is submitted to the federal authorities for approval, first be approved by the governor and reported to the joint committee on finance while the legislature is in session and at other times to the board on government operations.

(6) The governor may accept for the state the provisions of any act of congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor deems such provisions to be in the public interest; and to this end the governor may take or cause to be taken all necessary acts including (without limitation because of enumeration) the making of leases or other contracts with the federal government; the preparation, adoption and execution of plans, methods, and agreements, and the designation of state, municipal or other agencies to perform specific duties.

(7) The governor may accept for the state at all times the provisions of any act of congress whereby funds are made available to the state for any purpose whatsoever, including the school health program under the social security act, and perform all other acts necessary to comply with and otherwise obtain, facilitate, expedite, and carry out the required provisions of such acts of congress.

(8) The governor, through the secretary, shall notify the board on government operations at least quarterly of any federal funds received or positions created, pursuant to this section, in excess of those approved in the biennial budget or budget review process.

History: 1973 c. 333

**16.545 Federal aid management service.** A federal aids management service shall be established in the department of administration:

(1) To fully inform the governor, the legislature, the commission on interstate cooperation, other state agencies and the public of available federal aid programs.

(2) To fully inform the governor and the legislature of pending federal aid legislation.

(3) To advise the governor and the legislature of alternative and recommended methods of administering federal aid programs.

(4) To study and interpret the effect of federal aid programs on the administration of

state government and the pattern of state government finances.

(5) To assist in the co-ordination of broad federal aid programs which are administered by more than one state agency.

(6) To maintain an information center on federal aid programs.

(7) To analyze and advise on proposed federal aid budgets submitted to the governor and the joint committee on finance or the board on government operations pursuant to s. 16.54(5).

(8) To serve as the state central information reception center for the receipt and dissemination of such federal grant-in-aid information as provided by federal agencies pursuant to section 201 of the federal intergovernmental cooperation act of 1968. All information shall be reported to the governor and to the interstate cooperation commission which shall serve as the principal liaison contract between the federal aid management service and the legislature except as provided in sub. (7).

(9) To supply to the interstate cooperation commission such statistical and other information relating to federal aid programs and their utilization by or availability to this state and its municipalities as the commission or its chairman requests.

**16.55 Uncollectible shortages.** On or before March 1 of each odd year the attorney general shall notify the department of administration of the sums of money embezzled from the several state accounts during the prior 2 years indicating the amounts uncollected and uncollectible. The department of administration shall cause a bill to be prepared appropriating from the several state funds a sum sufficient to liquidate the uncollectible shortages in state accounts caused by such embezzlement, and submit such bill to the joint committee on finance for introduction.

**16.60 Services to nonprofit corporations.**

(1) The department of administration may provide, on a reimbursable basis, financial and management services for nonprofit corporations with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects. Services provided under this section shall be in accordance with the request of the state building commission as to the type and scope of service requested, the civil service range of the employe or employes assigned to them and the total reimbursement to be charged by the department of administration to the nonprofit corporations.

(2) The department or the legislature or any person delegated by the legislature may inspect

and examine or cause an inspection and examination of all records relating to the construction of projects that are, or are to be, financed by a nonprofit corporation and leased or subleased by any state agency.

(3) The secretary of administration or his designated representative shall serve in an advisory capacity to and be a nonvoting member of any nonprofit corporation with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects.

## SUBCHAPTER IV

### PURCHASING

**16.70 Purchasing; definitions.** As used in ss. 16.70 to 16.81 the following terms shall mean:

(1) The term "office" includes both houses of the legislature and any department, board, commission or body connected with the state government, including all educational, charitable, correctional, penal and other institutions.

(2) The term "officer" includes each requisitioning officer of the legislature and the person or persons at the head of any such department, board, institution, commission or body, by whatever title any such person or persons may be elsewhere designated.

(3) The words "permanent personal property" include furniture and furnishings, typewriters, calculating, numbering and adding machines, apparatus, library and other books, motor vehicles, machinery and equipment, and any and all property which in the opinion of the secretary will have a life of more than one year.

(4) "Contractual services" includes all materials and services, and any construction work involving less than \$2,500 for construction work to be done for or furnished to the state or any agency thereof.

History: 1971 c 164

**16.71 Purchasing, powers.** The department of administration shall purchase and may delegate to special designated agents the authority to purchase:

(1) All necessary materials, supplies, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all state offices. All such materials, services and other things and expense furnished to any such office shall be charged to the proper appropriations of the offices to whom furnished, as provided in s. 20.505.

(2) Cement, machinery and other materials and supplies needed for the improvement or maintenance of highways and streets paid for in

whole or in part with state funds. The officials of any town, village, city or county shall upon application to the department of administration be given information as to prices on any items mentioned in this subsection which are to be used on public works and paid for in whole or in part by public funds.

(3) All stencil duplicating, offset printing and similar work.

(4) Coal and other solid fuel for state owned or operated heating or heating and power plants wherein the annual requirements are in excess of 50 tons, to be purchased on contracts pursuant to specifications supplied under s. 16.90.

**16.72 Purchasing, duties.** (1) The department of administration shall check or have checked, as to quantity and quality, the delivery of all purchases.

(2) The department of administration shall prepare standard specifications, as far as possible, for all state purchases. By "standard specifications" is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the department of administration shall also seek and be accorded without cost, the assistance, advice and co-operation of other state offices and officers. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of any and all offices which use it in common.

**16.73 Purchase state-made articles.** All materials and services required to be furnished by the department which are manufactured or produced at the institutions of the state shall be purchased from said institutions when such products or services conform to the specifications prepared by the department.

**16.74 Requisitions; disposal of surplus items.** Except as otherwise provided in ss. 16.71 to 16.82 and in the rules adopted pursuant thereto, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any office only upon requisition to the department. The department shall prescribe the form, contents, number and disposition of requisitions and shall prescribe rules as to time and manner of submitting such requisitions for processing. It shall also provide rules for the declaration as surplus of supplies, materials and equipment in any agency and for the transfer to other agencies or for the disposal by private or public sale of supplies, materials and equipment.

In either case due credit shall be given to the agency releasing same.

Computer programs may be sold as surplus provided the programs were not created for resale purposes. 59 Atty. Gen 144

**16.75 Buy on low bid, exceptions.** (1) All materials, supplies, equipment and contractual services except as otherwise provided in subs. (3) and (7), when the estimated cost exceeds \$3,000, shall be purchased from the lowest responsible bidder. All orders awarded or contracts made by the department shall be awarded to the lowest responsible bidder, taking into consideration the location of the institution or agency, the quantities of the articles to be supplied, their conformity with the specifications, the purposes for which they are required and the date of delivery, but preference shall always be given to materials, supplies and provisions of Wisconsin producers, distributors, suppliers and retailers. Bids shall be received only in accordance with such standard specifications as are adopted by the department as provided in this subsection. Any or all bids may be rejected. Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be opened to public inspection. Due notice inviting proposals shall be published as a class 2 notice, under ch. 985, and the bids shall not be opened until at least 7 days from the last day of publication. The official advertisement shall give a clear description of the article to be purchased, the amount of the bond or check to be submitted as surety with the bid and the date of public opening.

(3) When the department of administration believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, it may purchase said articles without the usual statutory procedure. All equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of the detailed specifications submitted with the bids, and after due advertisement as hereinbefore provided. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

(4) The department of administration may let contracts in excess of funds available. Except in the cases to which s. 18.10 (1) applies, any such contract shall state in substance that its continuance beyond the limits of funds already available shall be contingent upon appropriation of the necessary funds.

(5) The department of administration may require of bidders or contractors such sureties as, in its judgment, are deemed advisable. It may

decide as to the responsibility and competency of such bidders and sureties. A bond furnished by a surety company authorized to do business in this state, for the proper performance of each contract may be required in the discretion of the department of administration.

(6) Subsections (1) to (5), except as to their requirements in connection with printing and stationery, shall not be deemed to apply to the purchase of supplies, materials or equipment from the federal government or any agency thereof and, with the approval of the governor, may be waived with respect to purchases from private sources when such action is deemed to be in the best interests of the state.

(7) Stationery and printing shall be purchased from the lowest responsible bidder without regard to the amount of the purchase, except when the department of administration exercises the discretion vested in it by s. 16.82 (4).

The state can ask for alternative bids; if abuse of discretion is claimed in accepting a bid, a flagrant abuse of discretion amounting to fraud must be shown. *Automatic Merchandising Corp. v. Nusbaum*, 60 W (2d) 362, 210NW (2d) 745.

**16.76 Contracts, contents, arbitration clause.** (1) All contracts for materials, supplies, equipment and contractual services shall run to the state of Wisconsin, and shall be signed by the secretary or persons authorized by the department. All contracts shall contain a clause providing for arbitration of disputes between the state and the contractor regarding quality and quantity.

(2) The department may enter into continuing agreements and flexible contracts in anticipation of the needs of departments, which provide for deliveries of specified articles under stated terms and conditions. No such continuing agreements or flexible contracts may exceed one year's duration, but may be renewed twice for one year.

(3) (a) Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for 90 calendar days from the date of award. Any increase proposed shall be submitted to the department 30 calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bidding documents and contracts or agreements.

(b) The department may accept, negotiate or reject any proposed price increase. Upon rejection, the contractor may exercise any

termination clause which has been incorporated into the contract.

History: 1973 c. 333.

**16.765 Nondiscriminatory contracts.** (1) Contracting agencies of the state shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employe or applicant for employment because of race, religion, color or national origin.

(2) Contracting agencies of the state shall include the following provision in every contract executed by them:

(a) In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employe or applicant for employment because of race, religion, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available for employes and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

(3) Subsections (1) and (2) shall not apply to contracts to meet special requirements or emergencies, if approved by the administrator of the division of equal rights of the department of industry, labor and human relations.

(4) The contracting agencies of the state shall take appropriate action to revise the standard government contract forms in accordance with this section.

(5) The head of each contracting agency of the state shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination provisions prescribed by this section, according to procedures recommended by the division of equal rights of the department of industry, labor and human relations. This division shall make recommendations to the contracting agencies for improving and making more effective the nondiscrimination provisions of such contracts. All contracting agencies of the state are directed to cooperate with the division of equal rights, and, to the extent permitted by law, to furnish the division such information and assistance as it may require in the performance of its functions under this section. The division of equal rights shall establish such rules as may be necessary for the performance of its functions under this section, and shall make annual reports on its progress to the governor.

(6) The division of equal rights of the department of industry, labor and human relations may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. Complaints received shall be transmitted by the division to the appropriate contracting agencies to be processed in accordance with the agencies' procedure for handling such complaints. Each contracting agency shall report to the division the action taken with respect to all complaints received by the agency, including those transmitted by the division. The division shall review and analyze the reports submitted to it by the contracting agencies.

(7) When a violation of this section has been determined by the department of industry, labor and human relations following investigation by the division of equal rights the state agency shall be so advised and thereafter said state agency shall:

(a) Immediately inform the violating party of the violation.

(b) Direct the violating party to take action necessary to halt the violation.

(c) Direct the violating party to take action necessary to correct, if possible, any injustice to any person adversely affected by the violation.

(d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the state agency involved.

(8) If further violations of this section are committed during the term of the contract the state agency involved may permit the violating party to complete the contract, after complying with this section, but thereafter request the division of equal rights to place the name of the party on the ineligible list for state contracts, or the state agency may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

(9) The names of parties who have had contracts terminated under this section shall be placed on an ineligible list for state contracts, maintained by the division of equal rights. No state contract shall be approved and let to any party on such list of ineligible contractors. The division of equal rights may remove the name of any party from the ineligible list of contractors when, following investigation, the division of equal rights determines the contractor's employment practices comply with this section and provide adequate safeguards for its observance.

(10) The division of equal rights of the department of industry, labor and human relations shall encourage the furtherance of an educational program by employer, labor, civic,

educational, religious and other voluntary nongovernmental groups in order to eliminate or reduce the basic causes and costs of discrimination in employment. It may establish and maintain cooperative relationships with agencies of local government, as well as with nongovernmental bodies, to assist in achieving the purposes of this section.

(11) A violation by a prime contractor shall not impute to a subcontractor nor shall a violation by a subcontractor impute to a contractor.

**16.77 Audit of bills; illegal contracts; actions to recover.** No bill or statement for work or labor performed under purchase orders or contracts issued by the secretary or his designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any office shall be paid until such bill or statement shall have been approved by the secretary or his designated agents. Whenever any officer or any subordinate of such officer shall contract for the purchase of supplies, material, equipment or contractual services contrary to ss. 16.71 to 16.82 or the rules made pursuant thereto, such contract shall be void, and any such officer shall be liable for the cost thereof, and if such supply, material, equipment or contractual services so unlawfully purchased has been paid for out of public moneys, the amount thereof may be recovered in the name of the state in an action filed by the attorney general against such officer or subordinate and his bondsmen. Such cause of action shall be deemed to have arisen in Dane county, and summons shall be served therein as in civil actions.

**16.78 Warehouses.** The department of administration may establish necessary warehouses wherein it shall be permitted to store such staple and standard articles as are needed by various state officers.

**16.79 Duties of department of administration.** The department of administration shall:

(1) Purchase so many copies of the latest digest of the Wisconsin reports, and such volumes of said reports, as may be required to complete such sets of said reports as may be called for to supply new courts and new counties; and also such volumes of said reports as may be required by the state librarian to make the exchanges provided for by law with other states and territories.

(2) (a) Distribute in pamphlet form such laws as may be required to meet the public demand, including the constitution and additional copies of election laws; also blank nomination

papers and other election blanks and supplies, not otherwise provided for, for use of candidates, committees, and by city and county clerks. Such laws, blanks and supplies shall be sold by said department of administration at cost, plus 15% and necessary postage or other transportation charges.

(b) The department of administration shall confer with the elections board and the attorney general as to what law pamphlets, blanks and other election supplies shall be so printed, or purchased, and offered for sale.

History: 1971 c. 82; 1973 c. 334 s. 57

**16.80 Records of state offices.** (1) PUBLIC RECORDS BOARD. The public records board shall preserve for permanent use important state records and provide an orderly method for the disposition of other state records.

(2) DEFINITIONS. As used in this section:

(a) "Public records" means all books, papers, maps, photographs, films, recordings, or other documentary materials or any copy thereof, regardless of physical form or characteristics, made, or received by any agency of the state or its officers or employes in connection with the transaction of public business and retained by that agency or its successor as evidence of its activities or functions because of the information contained therein; except the records and correspondence of any member of the state legislature.

(b) "State agency" means any officer, commission, board, department or bureau of state government.

(c) "Board" means the public records board.

(3) DUTIES OF THE BOARD. The board:

(a) Shall safeguard the legal, financial and historical interests of the state in public records.

(b) Upon the request of any state agency, may order upon such terms as the board finds necessary to safeguard the legal, financial and historical interests of the state in public records, the destruction, reproduction by microfilm or other process, temporary or permanent retention or other disposition of public records.

(c) Shall make reasonable rules to carry out the purposes of this section.

(d) Establish a system for the protection and preservation of essential public records as directed by s. 22.22.

(e) Shall establish the minimum period of time for retention before destruction of any city or village record.

(4) APPROVAL TO DESTROY. All public records made or received or in the custody of a state agency shall be and remain the property of the state and as such may not be destroyed without the written approval of the originating

office or its legal successor and the written approval of the public records board.

(5) PROCEDURE FOR DISPOSITION OF NONCURRENT PUBLIC RECORDS. To secure the destruction or other disposition of noncurrent public records, the head of any state agency or his designated representative shall forward to the board an inventory of the records involved, certifying that as far as his agency is concerned the records may be destroyed or otherwise disposed of immediately or at some specified future date. Such records shall be open at all times to inspection by the members of the board or their designated representatives.

(6) PROCEDURE FOR PHOTOGRAPHIC REPRODUCTION OF PUBLIC RECORDS. Any state agency desiring to photographically reproduce public records in order to permit the destruction of original records having permanent value may submit a request to the board to reproduce photographically such records together with such information as the board requires. Upon receiving written approval from the board, any state agency may cause any public record to be photographed, microfilmed or otherwise reproduced by photography. The photographic reproduction shall comply with this section and the rules adopted pursuant thereto.

(7) WHEN REPRODUCTION DEEMED ORIGINAL RECORD. Any photographic reproduction shall be deemed an original record provided:

(a) That the device used to reproduce the records on film is one which accurately reproduces the content of the original;

(b) That each reel or part of a reel of microfilm carries at the beginning a title target giving the name of the agency, brief title of records series, the disposal authorization number assigned by the board and at the end the camera operator's certificate showing the disposal authorization number, reel number, brief title of record series, a brief description of the first and last document on the reel or part of reel of film, together with a statement signed by the operator substantially as follows: I certify that I have on this \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_, photographed the above described documents in accordance with the standards and procedures established by s. 16.80.

(c) That a statement shall be filed with the board that the reproduction is upon film which complies with the minimum standards of quality for permanent photographic records, as established by the board, and that the film was processed and developed in accordance with minimum standards established by the board. The certificate of the operator and the statement of compliance shall be presumptive evidence that all conditions and standards prescribed by this section have been complied with.

**(8) ADMISSIBLE IN EVIDENCE.** (a) Any photographic reproduction meeting the requirements of this section shall be taken as, stand in lieu of and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of any photographic reproduction on film made as provided by this section and certified by the custodian as provided in s. 889.08 shall have the same force as the photographic reproduction itself.

**(9) PRESERVATION OF REPRODUCTIONS.** Provision shall be made for the preservation of any photographic reproductions of public records in conveniently accessible files in the agency of origin or its successor or in the state archives.

**(10) CONTRACTS FOR PHOTOGRAPHIC REPRODUCTION.** (a) Contracts for photographic reproduction of records to be made as provided in this section shall be made by the secretary as provided in s. 16.71 and the cost of making such photographic reproduction shall be paid out of the appropriation of the state agency having the reproduction made.

**(11) MISCELLANEOUS REPRODUCTION OF RECORDS.** (a) Each state agency shall, when providing photographic copies or enlargements of records, require of the requester payment of the actual cost thereof. Fees collected shall be paid by the state agency into the fund from which its appropriation was made and credited to such appropriation, except as otherwise provided by law.

(b) Nothing in this section shall be construed to prohibit the responsible officer of any state agency from reproducing any document whatsoever by any method when it is necessary for him to do so in the course of carrying out his duties or functions in any case other than where the original document is to be destroyed; but no original public record shall be destroyed after microfilming or other reproduction without the approval of the board as provided in sub. (3).

**(12) ACCESS TO PHOTOGRAPHIC REPRODUCTIONS.** All persons may examine and use the photographic reproductions of public records subject to such reasonable rules as may be made by the responsible officer of the state agency having custody of the same.

**(13) HISTORICAL SOCIETY AS DEPOSITORY.** (a) The historical society, as trustee for the state, shall be the ultimate depository of the archives of the state, and the board may transfer to the society such original records and reproductions as it deems proper and worthy of permanent preservation, including records and reproductions which the custodian thereof has

been specifically directed by statute to preserve or keep in his office. The society may deposit in the regional depositories established under s. 44.10, title remaining with the society, the records of state agencies or their district or regional offices which are primarily created in the geographic area serviced by the depository, but the records of all central departments, offices, establishments and agencies shall remain in the main archives in the capital city under the society's immediate jurisdiction, except that the society may place such records temporarily at a regional depository for periods of time to be determined by the society. Nothing in this subsection nor in ch. 44 shall be construed to prevent the society's taking such steps for the safety of articles and materials entrusted to its care in library, museum or archives, including temporary removal to safer locations, as may be dictated by emergency conditions arising from a state of war, civil rebellion or other catastrophe.

(b) The historical society shall, in cooperation with the staff of the board, as soon as practicable, adequately and conveniently classify and arrange such state records or other official materials as may be transferred to its care, for permanent preservation under this section and keep the same accessible to all persons interested, under such proper and reasonable rules as the historical society finds advisable. Copies therefrom shall, on application of any citizen of this state interested therein, be made and certified by the director of said historical society, or his authorized representative in charge, which certificate shall have the same force as if made by the official originally in charge of them. Records which have a confidential character while in the possession of the original custodian shall retain such confidential character after transfer to the historical society unless the board of curators of the historical society, with the concurrence of the original custodian, determines that such records shall be made accessible to the public under such proper and reasonable rules as the historical society adopts.

**16.81 Records management service.** The department of administration may establish and maintain a records management service:

**(1)** To advise state departments on the standards, procedures and techniques required for the efficient creation, use and destruction of state records.

**(2)** To establish and maintain intermediate records storage centers at such major installations as the secretary deems advisable.

**(3)** To advise the public records board regarding the desirability of approving departmental requests to destroy records.

**16.82 Powers of department of administration.** In addition to other powers vested in the department of administration, it and its duly authorized representatives:

(1) Shall have access at all reasonable times to all state offices;

(2) May examine all books, records, papers and documents in any such office or institution as pertain directly or indirectly to the purchase of, control of, or distribution of supplies, materials and equipment;

(3) May require any officer to furnish any and all reasonable data, information or statement relating to the work of his department.

(4) (a) May produce or contract to have produced, printing of classes 1, 3 and 4, and excerpts from the statutes under class 2, and all materials offered by state agencies for production.

(b) Determine the form, style, quantity and method of reproduction, when not specifically prescribed by law, of all materials offered by state agencies for production. Any state agency which objects to the determination made under this paragraph may appeal the decision of the department to the governor.

(c) Agencies performing work under this section shall make reports as are required to the department which shall compile and prepare such summary reports as the board on government operations requests.

(d) May, during a period when a contract for any class or subclass of public printing has expired and a new contract for the following biennium has not been entered into under ch. 35, obtain public printing from private printers at prevailing commercial rates, or may produce public printing.

(e) In deciding whether to use the discretion under pars. (a) and (d) to produce graphic material, the department shall take into consideration the urgency of the work and the relative cost of production by the department as against the cost of outside work.

(f) The cost of work done under pars. (a) to (e) shall be charged to the agency ordering the work.

(g) This subsection and s. 35.015 shall be liberally construed so as to effectuate the legislature's intent to vest broad discretion in the department to determine what public printing in the classes covered and what materials offered by state agencies for production shall be done by the state itself, and what shall be contracted. Such liberal construction shall extend to the department's determination to use the power conferred, to the determination of what work is to be included in the classes covered, and to the determination of whether a given process is similar to those enumerated.

(h) To further legislative intent, the department shall impose all practical restraint on the capability for production by the state of the classes enumerated consistent with s. 16.001.

History: 1971 c 125.

**16.825 Council on printing.** (1) The council on printing shall confer with the secretary of administration on policies and procedures with respect to the printing activities of the state and advise him on such matters. The council shall meet with the secretary at least quarterly. The council may request reports, through the department, pertinent to its functions from any state agency.

(2) The secretary shall confer with the assembly committee on printing and the senate committee on government and veterans affairs annually with respect to the printing activities of the state with recommendations for legislation thereto and changes in administrative policies and procedures. The secretary shall include in his report specifics on printing requisitions of \$7,500 and more and details on the performance of state agencies under s. 35.29 (3).

History: 1971 c 125.

**16.83 State capitol and executive residence board.** (1) **PURPOSE.** The purpose of the state capitol and executive residence board is to direct the continuing and consistent maintenance of the property, decorative furniture and furnishings of the capitol and executive residence.

(2) **POWERS AND DUTIES.** No renovation, repairs except repairs of an emergency nature, installation of fixtures, decorative furniture or furnishings for the grounds and buildings of the capitol or executive residence may be performed by or become the property of the state by purchase wholly or in part from state funds, or by gift, loan or otherwise until approved by the board as to design, structure, composition and appropriateness. The board shall:

(a) Annually thoroughly investigate the state of repair of the capitol and executive residence.

(b) Project the necessary personnel, materials and supplies required annually to maintain the executive residence appropriately both for its public functions and as the residence of the governor, and make specific budget recommendations to the department of administration to accomplish this purpose.

(c) Insure the architectural and decorative integrity of the buildings, decorative furniture, furnishings and grounds of the capitol and executive residence by setting standards and criteria for subsequent repair, replacement and additions.

(d) Accept for the state donations or loans of furniture, furnishings, works of art and equipment consistent with par. (c).

**16.835 Offices in capitol.** The governor, secretary of state, treasurer, attorney general and the state superintendent shall each keep his office in the state capitol.

**16.84 Department of administration; physical plant management; protection of persons.** The department shall:

(1) Have charge of, operate, maintain and keep in repair the state capitol building, the executive residence, the light, heat and power plant, the state office buildings and their power plants, the grounds connected therewith, and such other state properties as are designated by law.

(2) Appoint such number of security officers as is necessary to safeguard all public property placed by law in the department's charge and, when authorized by the governor, to safeguard state officers or other persons. Such security officers may arrest, with or without warrant, any person violating any law within or around any of said properties or in the presence or vicinity of said state officers or other persons being safeguarded by authorization of the governor. Nothing in this subsection limits or impairs the duty of the chief and each policeman of the police force of the municipality in which the property is located to arrest and take before the proper court or magistrate persons found in a state of intoxication or engaged in any disturbance of the peace or violating any state law, except s. 16.93 (2), in or around any of said properties located in the municipality in which the property is located, as required by s. 62.09 (13).

(3) Appoint full-time domestic employees to work in the executive residence on a project basis.

(4) Assign space in the capitol, other than rooms reserved by either house of the legislature. In assigning officers to space in the capitol preference shall be given to those who are especially entitled by law to such space. All assignments shall be subject to the approval of the governor.

(5) Have responsibility, subject to approval of the governor, for all functions relating to the acquisition, allocation and utilization of office space by the state.

(6) Require of the several agencies of state government all information necessary for the planning and forecasting of the space needs of state government on a comprehensive long-range basis. To this end the department shall cooperate with the state building commission in order that the projected program of new

construction will conform with the state's long-range building plans.

(7) Approve administrative district boundaries of the several state agencies unifying them where possible in order to facilitate the acquisition and maintenance of suitable district headquarters in the several parts of the state.

(8) Let concessions for periods not exceeding 2 years in the capitol and state office buildings, under such terms and conditions as will in its judgment be most favorable to the state, and in accordance with s. 47.09.

(9) Prepare a Wisconsin state capitol guide book containing information regarding the state capitol, its buildings and grounds, to be sold at near cost as practicable.

(10) Approve as to design, structure, composition and location and arrangements made for its care and maintenance which are satisfactory to the department all public monuments, memorials, or works of art, except such as are or become the property of the university of Wisconsin or the historical society, which shall be constructed by or become the property of the state by purchase wholly or in part from state funds, or by gift or otherwise. "Work of art" means any painting, portrait, mural decoration, stained glass, statue, bas-relief, ornament, tablets, fountain or any other article or structure of a permanent character intended for decoration or commemoration. The governor, the legislature or any committee thereof may, at any time, request a report as to the recommendations of the department on any of the above matters and the department shall make such report within 30 days of the receipt of such request.

(11) Prepare, publish and enforce or have enforced rules of conduct for the several buildings for which the department has managing authority.

History: 1971 c 183

**16.845 Use of state facilities.** (1) **RULE; PENALTY.** Except as elsewhere expressly prohibited, the managing authority of any facility owned by the state may permit its use for free discussion of public questions, or for civic, social, recreational or athletic activities. No such use shall be permitted if it would unduly burden the managing authority or interfere with the prime use of such facility. The applicant for use shall be liable to the state for any injury done to its property, for any expense arising out of any such use and for such sum as the managing authority may charge for such use. All such sums are to be paid into the general fund and to be credited to the appropriation for the operation of the facility used. The managing authority may permit such use notwithstanding the fact that a reasonable

admission fee may be charged to the public. Whoever does or attempts to do an act for which a permit is required under this section without first obtaining the permit may be fined not more than \$100 or imprisoned not more than 30 days or both. This section applies only to those buildings, facilities and grounds for which a procedure for obtaining a permit has been established.

**(2) DEFINITIONS.** In this section:

(a) "Facility" includes buildings and surrounding and connecting grounds.

(b) "Managing authority" means the board, commission, department or officer responsible by law for the management of the particular facility.

History: 1971 c. 183.

## SUBCHAPTER V

### ENGINEERING

**16.85 Department of administration; powers, duties.** The department of administration shall exercise the powers and duties prescribed by ss. 16.85 to 16.91:

**(1)** To take charge of and supervise all engineering or architectural services or construction work performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit-sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the engineering, architectural and construction work of the highway commission and the engineering service performed by the department of industry, labor and human relations, department of revenue, public service commission, department of health and social services and other departments, boards and commissions when such service is not related to the maintenance, construction and planning of the physical properties of the state;

**(2)** To furnish engineering and architectural services whenever requisitions therefor are presented to him by any department, board, commission or officer;

**(3)** To act and assist any department, board, commission or officer requesting such cooperation and assistance, in letting contracts for engineering or architectural work authorized by law and in supervising the work done thereunder;

**(4)** To approve the appointment of a chief operating engineer connected with each state-owned power and electric plant and pumping and heating station and to provide for the methods of operating said plants and stations and to design

records and forms for reporting accurately the cost per unit of product or service. The superintendent or other person having charge of said plants shall not only report to his governing body but to the secretary in the manner provided and at such times as the secretary determines.

**(6)** To approve the appointment of a principal engineer or architect for departments, boards and commissions and when such continuous service is needed. No such engineer or architect shall be employed without the written approval of the secretary.

**(7)** To rebuild and repair discarded machinery of the several state institutions when found feasible, and put the same back into service in the same department or in any other state department, and upon requisition to furnish services and material and loan equipment at fair rentals based on the cost thereof, in connection with the construction, operation and maintenance of heating and power plants, utilities and equipment.

**(8)** The secretary or his designated assistants shall make a biennial inspection of each building of each institution of the state. The secretary may delegate this responsibility to the board, commission or officer in charge of such institution.

**(10)** To prepare in co-operation with the state agencies concerned, plans for the future growth and development of various state institutions and to serve as technical advisor to the state building commission in connection with the development of the state long-range building program provided in ss. 13.48 and 13.482.

**(11)** The secretary may delegate any of the work under this subchapter to the various state agencies when he determines that the best interests of the state will be served. All such delegation will be in writing and accompanied by the proper rules and guidelines the agencies must follow to ensure performance to the satisfaction of the secretary.

History: 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13.

### **16.855 Construction project contracts.**

**(1)** The department shall let by contract to the lowest qualified responsible bidder all construction work when the estimated construction cost of the project exceeds \$15,000. In the absence of compelling reasons to the contrary, preference shall be given to Wisconsin-based firms.

**(2)** Whenever the estimated construction cost of a project exceeds \$15,000, the department shall:

(a) Advertise for proposals by publication of a class 1 notice, under ch. 985, in the official state newspaper. Similar notices may be placed in publications likely to inform potential bidders of the project. The department may solicit bids

from qualified contractors to insure adequate competition. All advertisements shall contain the following information:

1. Location of work and the name of the owner.
2. Scope of the work.
3. Amount of bid guarantee required.
4. Date, time and place of bid opening.
5. Date, and place where plans will be available.

(b) 1. Require that a guarantee of not less than 10% of the amount of the bid shall be included with each bid submitted guaranteeing the execution of the contract within 10 days of offering, if offered within 30 days after the date set for the opening thereof. The parties may agree to extend the time for offering of the contract beyond 30 days after the opening of bids.

2. If the federal government participates in a state project, the bid guarantee required in this paragraph controls, unless the federal government makes a specific provision for a different bid guarantee.

(c) Publicly open and read aloud, at the time and place specified in the notice, all bids. Within a reasonable time after opening, tabulations of all bids received shall be available for public inspection.

(d) Not allow or make any correction or alteration of a bid, except as provided in sub. (6).

(3) At any time prior to the published time of opening, a bid may be withdrawn on written request submitted to the department by the bidder or his agent, without prejudice to the right of the bidder to file a new bid.

(4) If a bid contains an error, omission or mistake, the bidder may limit his liability to the amount of his bid guarantee by giving written notice of his intent not to execute the contract to the department within 72 hours of the bid opening. The bidder is not entitled to recover his bid guarantee unless he proves in the circuit court for Dane county that in making the mistake, error or omission he was free from negligence.

(5) Any or all bids may be rejected if, in the opinion of the department, it is in the best interest of the state. The reasons for rejection shall be given to the bidder or bidders in writing.

(6) Nothing contained in this section shall prevent the department from negotiating deductive changes in the lowest qualified bid not to exceed 5% of the total bid in order to bring the bid within the limits imposed by authorized funds.

(7) The department may issue contract change orders, if they are deemed to be in the best interests of the state.

(8) The department may waive the requirement that contractors furnish the bonds specified in s. 289.14 (1), when adequate guarantees or warranties are provided for by contract.

(9) The department may require bidders to submit sworn statements as to financial ability, equipment and experience in construction and require such other information as may be necessary to determine their competency.

(10) When the department believes that it is in the best interests of the state to contract for certain articles or materials available from only one source, it may contract for said articles or materials without the usual statutory procedure, after a publication of a class 1 notice, under ch. 985, in the official state newspaper.

(11) A contractor shall be liable for any damages to another contractor working on the same project caused by reason of the former's default, act or nonperformance.

(12) Nothing contained in this section shall be construed so as to make contracts let under this section subject to s. 66.29.

(13) (a) A list of subcontractors shall not be required to be submitted with the bid. The department may require the successful bidder to submit in writing the names of prospective subcontractors for the department's approval before the award of a contract to the prime contractor.

(b) All subcontractors must be approved in writing by the department prior to their employment. Requests for approval of prospective subcontractors shall be in writing.

(c) Changes may be made in the list of subcontractors, with the agreement of the department and the prime contractor, when in the opinion of the department it is in the best interests of the state to require the change.

(14) On all construction projects requiring the taking of bids under sub. (2), separate bids shall be taken for a) general construction, b) plumbing, c) heating, ventilating and air conditioning and d) electrical. The department may take separate bids on any other division or further subdivision of the preceding divisions of the work it designates. Combination bids for such work may also be taken provided any bidder who submits a combined bid also submits separate bids for all of the divisions of work comprising the combined bid. Contracts shall be awarded to the lowest qualified responsible bidders that result in the lowest total construction cost for the project.

(15) The department shall adopt rules to implement the advertising and award of contracts.

(16) This section does not apply to contracts between the state and federal government or any agency thereof, or with any political subdivision

of the state. Subject to the approval of the governor, the requirements of this section may be waived in emergency situations involving the public health, welfare or safety and with respect to contracting with public utilities and when any such waiver is deemed by the governor to be in the best interests of the state.

(17) This section shall not apply to any project on which the work is to be performed by inmates or patients in institutions under the jurisdiction of the department of health and social services working under the supervision or with the assistance of state employees.

(18) This section shall not apply to restoration and reconstruction of historic structures at the old world Wisconsin site when the department determines that a waiver of this section would serve the best interests of this state.

History: 1971 c. 125; 1973 c. 47.

Construing (2) (a) 2 and (14), it is held that the department has authority to create a division of work not limited to traditional trade practices, which may include work divisions other than the four enumerated in the statute if the new division involves a specialized area of construction, e.g., elevator work which is commonly designated a division although it involves the electrical trade. *Breiby v. Dept. of Administration*, 55 W (2d) 16, 197NW (2d) 737

**16.865 Department of administration; statewide risk management coordination.**  
The department shall:

(1) Be responsible for statewide risk management coordination in order to:

(a) Protect the state from losses which are catastrophic in nature and minimize total cost to the state of all activities related to the control of accidental loss.

(b) Place emphasis on the reduction of loss through professional attention to scientific loss control techniques and by motivational incentives, prompt claims payments and other loss prevention measures.

(2) Identify and evaluate exposure to loss to the state, its employees or injury to the public by reason of fire or other accidents and fortuitous events at state-owned properties or facilities.

(3) Recommend changes in procedures, program conditions or capital improvement for all departments which would satisfactorily eliminate or reduce the existing exposure, and coordinate state safety programs for all departments with the assistance of the state safety council.

(4) In cooperation with the commissioner of insurance, arrange appropriate insurance contracts for the transfer of the remaining risk of loss on the part of the state or its employees, to the extent such loss cannot reasonably be assumed by the individual departments, to the appropriate state insurance fund. If the commissioner of insurance concurs that coverage is not available

through the state insurance fund then the department shall procure for the departments such necessary coverage from a commercial insurer. The department shall provide assistance necessary in all technical aspects of arrangements with commercial insurers. The placement of insurance may be by private negotiation rather than competitive bid, if such insurance has a restricted number of interested carriers and has been the subject of competitive bid within the preceding 6 years. All insurance purchases shall require the approval of the department.

(5) Train, upgrade and guide appropriate personnel in the departments in implementation of sound risk management practices.

History: 1973 c. 333

**16.87 Approval of contracts by secretary and governor; audit.** Every contract for engineering or architectural service and every contract involving an expenditure of \$2,500 or more for construction work to be done for, or furnished to the state, or any department, board, commission or officer thereof, shall, before it becomes valid or effectual for any purpose, have indorsed thereon in writing the approval thereof of the secretary or his designated assistant, and all such contracts over \$15,000 shall also have approval of the governor; and no payment or compensation for work done under any contract involving \$2,500 or more, except highway contracts, shall be made unless the written claim therefor is audited and approved by the secretary.

History: 1973 c. 90.

**16.88 Charges against projects.** The cost of services furnished pursuant to s. 16.85 (2) to (4), (6) and (7) shall be charged to and paid out of available funds for the respective projects, whenever in the judgment of the secretary the charges are warranted and the cost of the services can be ascertained with reasonable accuracy.

**16.89 Construction controlled by chapter 16.** No department, independent agency, constitutional office or agent of the state shall employ engineering, architectural or allied services or expend money for construction purposes on behalf of the state, except as provided in this chapter.

**16.90 Fuel for state heating and power plants.** The secretary shall:

(1) Prepare all specifications for contracts for fuel for all state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms of such fuel. All such specifications where feasible shall

provide for purchase of such fuel on a heating value and quality basis and may provide for an adjustment of the base price as affected by an increase or decrease in the miners' wage scale during the life of the contract in the district in which the coal purchase is produced, or for increases or decreases in production costs of other fuels.

(1a) Prepare all specifications for contracts for lubricants for all state-owned or operated heating or heating and power plants and make such tests in connection therewith as may be deemed necessary.

(2) Test all fuel purchased for state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms and where purchased on a heating value and quality basis.

(3) Make such rules and regulations as he deems necessary, not inconsistent with this section, to promote efficiency and economy in the testing, handling, storing and use of such fuel.

**16.91 Contracts for fuel.** No contract for the purchase of fuel for any state-owned or operated heating or heating and power plant wherein the annual requirement is in excess of 12,500 therms shall be binding unless purchased upon specifications furnished by the secretary. Payments for fuel delivered under such contracts and for freight, switching and hauling charges thereon shall be made upon vouchers approved by the secretary, but upon being audited and paid shall be charged against the proper appropriation to the officer, department, board or commission which has jurisdiction over the institution at which such fuel is used. The secretary shall quarterly report to each such officer, department, board or commission the total of such payments charged to their respective appropriations and institutions, but approval of such payments by them shall not be necessary.

**16.93 Capitol and state office buildings parking regulations.** (1) (a) Except as provided in par. (b), the parking of automobiles at the curb on the capitol park side of the 4 streets surrounding the state capitol park shall be subject to any police regulation or city ordinance that may be enacted by the city of Madison designating the manner of such parking or limiting the length of time which automobiles can be so parked in such public streets in said city.

(b) Eight areas, for the parking of 5 automobiles in each area, at the curb on the capitol park side of the 4 streets surrounding the state capitol park, each area as near as lawfully permissible to each near side of the intersections

of said streets with the driveways leading to the capitol building, are reserved for the parking of automobiles by those persons designated in sub.

(3) during sessions (regular, adjourned or special) of the legislature, and only emergency police regulations or city ordinances of the city of Madison are applicable to such areas during said sessions. The department of administration shall mark and post the areas. Parking of automobiles in the areas during said sessions is permitted without restriction to those persons whose automobiles are identified as specified in sub. (4), and the parking therein of any vehicle by any other person is prohibited during said sessions and any violation of this prohibition shall be punished as in sub. (2).

(2) Except for persons designated in sub. (3), the parking of any motor vehicle in any of the 4 driveways of the capitol park leading to the capitol building is prohibited. Parking of any motor vehicle on the grounds of any of the state office buildings shall be in accordance with rules and orders established by the department and the department may establish a schedule of fees for parking at any state office building or facility, not including the capitol. Any person violating this subsection or any regulations adopted pursuant thereto shall be fined not exceeding \$25 or imprisoned not exceeding 10 days.

(3) The following persons may park automobiles identified as provided by sub. (4) in the parking areas designated in subs. (1) (b) and (2) without regard to the provisions thereof.

(a) Legislators and constitutional officers.

(b) Officers of the senate and assembly or, when the legislature is not in session (regular, adjourned or special), a person they may specify.

(c) Such state officers and employes as the governor directs not to exceed 15 or, when the legislature is not in session (regular, adjourned or special), such state officers and employes as the governor directs.

(4) To facilitate the administration of sub. (3), the department of administration shall procure identification tags, and issue such tags to applicants eligible under sub. (3).

**16.94 Burning bituminous coal near capitol.** (1) It shall be unlawful to burn any bituminous coal for heating, power or any other purpose or purposes within any of the following blocks surrounding the capitol park in the city of Madison, viz.: Blocks 64, 65, 66, 67, 68, 71, 72, 73, 74, 75, 76, 77, 82, 83, 84, 85, 88, 89, 90, 91, 98, 99, 100, 101, 102, 103, 104, 105, 107, 108, 109 and 110 or in the streets or alleys adjoining said blocks, except in smoke preventing furnaces of such an efficiency that no smoke shall be

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visible emitting from the top or outlet of the stack or chimney.

(2) Any person who shall cause, allow, or permit bituminous coal to be burned in violation of this section shall forfeit the sum of \$25 for each day or part thereof during which such violation continues.

(3) The secretary of administration, with the assistance of the department of justice, shall institute proper proceedings to collect fines for and restrain violations of this section.

(4) The limitations contained in this section are imposed for the protection of the state capitol and its contents.

**SUBCHAPTER VI****STATE PLANNING**

**16.95 Powers and duties.** The department shall, through a system of comprehensive long-range planning, promote the development and the maximum wise use of the natural and human resources of the state. It shall:

(1) Collect, analyze, interpret and, in cooperation with the other state agencies, maintain the comprehensive data needed for effective state agency planning and effective review of those plans by the governor and the legislature.

(2) Perform research to evaluate and measure alternative objectives and administrative actions.

(3) Stimulate and encourage all state agencies to comprehensively plan and advance proposals for their area of state government services, and assist the state agencies to develop a necessary planning capacity.

(4) Prepare and maintain plans for those state agencies which do not have an adequate planning capacity, at the request and in cooperation with those agencies.

(5) Advise and assist state agencies in their development and maintenance of comprehensive plans, providing them with technical and program information, and advising them of the impact of related plans of other state agencies.

(6) Stimulate the consideration and possible use of creative techniques and actions that may better accomplish the objectives of this section.

(7) Evaluate the plans of all state agencies, identify both duplication and program gaps in the plans and measure the agency plans with the state goals enacted by the governor and the legislature.

(8) Advise and assist the governor and the legislature in establishing long-range development policies and programs in considering state agency plans with regard to those policies and programs.

(10) Assist in implementing agency plans in accordance with policies and programs established by the governor and the legislature.

(11) Administer federal planning grants for state planning, when so designated by the governor pursuant to s. 16.54. The department may contract with other state agencies for the preparation of all or part of a facet of the state plan which is financed in whole or in part by federal planning grants.

**16.96 Population estimates.** The department of administration shall periodically make population estimates and projections. These population determinations shall be deemed to be the official state population estimates and projections. These determinations shall be used for all official estimate and projection purposes, except where otherwise directed by statute, but do not supersede s. 990.01 (29). The department shall:

(1) Annually make estimates of the current number of persons residing in each municipality and county of the state, and periodically make projections of the anticipated future population of the state, counties and municipalities.

(2) Prepare population estimates for purposes of state tax sharing distribution under ch. 79. For this purpose:

(a) On or before August 1 of each year, the department shall make its preliminary population determinations and shall notify the clerk of each municipality and county of its preliminary population determinations.

(b) Municipalities and counties believing that such population determinations are based upon incorrect information shall, by September 15 of the same year, file their specific objections, and evidence in support thereof, with the department.

(c) On or before October 10 of each year, the department shall make any necessary adjustments in its population determinations for the November distribution, and shall notify the clerk of any affected municipality or county of these adjustments. The adjusted population determinations shall be consistent with the methods used statewide for population determinations, and adjustments from the August 1 population determinations shall be made only to accommodate corrected information.

(cm) The July preliminary distribution shall be based on the final population determination of the previous year.

(d) The population determinations shall be based upon the last previous federal decennial or special census or other official statewide census and shall take into consideration growth rates of municipalities.

## SUBCHAPTER VII

## DATA PROCESSING

(dm) The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on August 1 if the final certified results of such censuses are received by the department before July 1 in the year in which the determination is being made. The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on October 10 if the final certified results of such censuses are received by the department before September 15 in the year in which the determination is made. If a municipality or county notifies the department in writing by September 15 of its intention to contract for a special census with the U.S. bureau of the census in support of a challenge to the August 1 population determination, and if the final certified results of such a special census are received by the department before June 1 in the following year, the department shall adjust the preceding October 10 population estimate to reflect the results of the special census. Upon making such population adjustments, shared tax distributions under ss. 79.02, 79.03, 79.04 and 79.06 shall be corrected according to ss. 79.065 and 79.08. Special census results for census dates occurring after the effective date of any population determination shall be prorated back to the effective date of the estimate for all municipalities. If a municipality contracts with the U.S. bureau of the census for a special census, the results of such special census shall be certified to the department for purposes of shared tax distribution. This section shall become effective for the 1974 distribution under s. 79.03 and shall apply to succeeding distributions under subch. I of ch. 79.

(e) The council on population estimates shall advise the secretary of administration in making population determinations under this section.

(3) Cooperate with other state agencies and with regional planning agencies so that the department's population estimates and projections will be useful for the many planning and other purposes for which they are required. The department may enter into agreement with state or regional planning agencies for their assistance in the preparation of population estimates and projections.

History: 1971 c. 215; 1973 c. 37, 333.

**16.97 Powers and duties.** (1) The department shall insure optimum efficiency and economy in all departments' data processing activities. It shall:

(a) Develop uniform state policies, standards and guidelines for systems development, computer programming and data processing equipment acquisition and utilization.

(b) Approve acquisition of all data processing hardware and software. In making such approvals the department shall consider systems and feasibility studies justifying such acquisition or other studies relating to cost savings or program benefits which are anticipated and ability of the agencies to accomplish the program.

(c) Evaluate actual results and usage against the planned objectives after a reasonable time.

(d) Coordinate system requirements of more than one agency to economically achieve multi-agency management needs.

(e) Annually submit a report on data processing costs and operations to the board on government operations or the joint committee on finance including but not limited to the following matters.

1. Costs of all data processing operations at start of the fiscal year.

2. Closing cost of all data processing operations at the end of the fiscal year. Such costs shall include all equipment including an equivalent rental cost of purchased equipment, rentals, personnel, supplies, maintenance and overhead. This report shall detail the reasons for all major increases or variances between starting and closing costs.

(f) Maintain a complete inventory of all state-owned or leased data processing equipment.

(g) Assist during the preparation of the budget in a compilation of the existing and proposed costs of all data processing activities contained in the budget for the use of the joint committee on finance.

(h) Operate a central data processing facility and systems staff to support those agencies which cannot justify their own.

(2) Acquisition of any data processing equipment containing a central processing unit which was not considered in the regular budgeting processing and which is to be financed from general purpose or segregated revenues of the state must have prior approval from the board on government operations or joint committee on finance. Any additional equipment to be acquired from program revenues need

not have prior approval but must be reported to the board on government operations or the joint committee on finance.

History: 1971 c. 261

**SUBCHAPTER VIII**

**FEDERAL RESOURCE ACQUISITION**

**16.98 Federal resource acquisition.** (1) The department shall engage in such activities as the secretary deems necessary to ensure the maximum utilization of federal resources by state agencies and institutions and other eligible organizations and units of government. The department shall acquire excess and surplus real and personal property at such cost to the

recipient as is necessary to amortize expenditures for transportation, packing, crating, handling and program overhead.

(2) The department may, in accordance with federal law, operate warehouses and otherwise provide for the temporary storage of property being transferred.

(3) All proceeds from the sale of land, buildings, supplies and equipment received under this section shall be credited to the appropriation under s. 20.505 (1) (i). Such proceeds may be used for the purchase of lands and buildings or for construction or improvement of buildings for the purpose of storing and handling excess and surplus property.

History: 1971 c. 215.