

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.

(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.

History: 1977 c. 196

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.

History: 1971 c. 270; 1977 c. 196.

16.004 Secretary, powers and duties. (1)

RULES. The secretary shall establish rules for administering the department and performing the duties assigned to it.

(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 joint committee on finance 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 agencies so as to determine the feasibility of consolidating, creating or rearranging agencies 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 employees of the department as the secretary designates may enter into agencies and examine their books and accounts and any other

matter which in the secretary's judgment should be examined and may interrogate the agency's employees publicly or privately relative thereto.

(5) AGENCIES AND EMPLOYEES TO COOPERATE. All agencies, and their officers and employees, 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 agencies, 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) PERSONNEL MANAGEMENT INFORMATION SYSTEM. The secretary shall establish and maintain a management information system which shall be used to furnish the governor, the legislature and the department of employment relations with current information pertaining to authorized positions, payroll and related items covering civil service employees.

(8) REVIEW OF RENTALS FOR STATE-OWNED HOUSING. The secretary shall establish and maintain a system relating to the rentals charged for state-owned housing and shall review the system for possible changes every 2 years and shall submit a recommendation to the joint committee on finance in March of each even-numbered year. Such system shall also include a procedure for review of the need to retain state-owned housing units and possible disposition of such units. Recommendations regarding the disposition of any housing units shall be submitted to the building commission.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272

16.006 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; 1977 c. 196 s. 61; 1977 c. 418 s. 36

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, the board may upon its own motion and shall upon request of the claimant, schedule such claim for hearing, giving the claimant at least 10 days' written notice of the date, time and place thereof. Those claims described under sub. (6) (b) shall not be heard or decided by the claims board. 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) AGENCIES TO COOPERATE. The several agencies 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 20 days after the board makes its determination. Findings and conclusions are not required for claims processed under s. 16.007 (6) (b).

(6) SETTLEMENT. (a) Except as provided in par. (b), whenever the claims board by unanimous vote finds that payment of not more than \$1,000 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 chairperson and secretary of the board from the appropriation made by s. 20.505 (3) (a).

(b) Whenever the representative of the department designated by the secretary pursuant to s. 15.105 (2), finds that payment of a claim described in this paragraph to a claimant is justified, the representative of the department may order the amount so found to be justified paid without approval of the claims board and without submission of the claim in the form of a bill to the legislature. Such claims shall be paid upon the certification of the representative of the department from the appropriation made by s. 20.505 (3) (a) and shall be annually reported to the board. Claims which may be paid directly by the department are:

1. Payment of the amount owed by the state under any check issued by it which has been voided for failure to present the check for payment within the prescribed period from the date of issuance.

2. Payment of a refund of state inheritance tax which has been overpaid by any taxpayer.

3. Payment of a refund due as the result of an overpayment made by mistake of the applicant in filing articles of incorporation or amendments thereto, or a certificate of authority for a foreign corporation to transact business in this state pursuant to s. 180.87.

(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 employees 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.

History: 1975 c. 397; 1977 c. 196 s. 130 (3).

16.008 Payment of special charges for extraordinary police service to state facilities.

(1) In this section "extraordinary police services" means those police services which are in addition to those being maintained for normal police service functions by a municipality or county and are required because of an assemblage or activity which is or threatens to become a riot, civil disturbance or other similar circumstance, or in which mob violence occurs or is threatened.

(2) The state shall pay for extraordinary police services provided directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of a state officer or agency responsible for the operation and preservation of such facilities. Municipalities or counties which provide extraordinary police services may submit claims

to the claims board for actual additional costs related to wage and disability payments, pensions and worker's compensation payments, damage to equipment and clothing, replacement of expendable supplies, medical and transportation expense and other necessary expenses. The clerk of the municipality or county submitting a claim shall also transmit an itemized statement of charges and a statement which identifies the facility served and the person who requested the services. The board shall obtain a review of the claim and recommendations from the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and (6).

History: 1977 c. 418

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 agencies.

(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 agencies 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 agencies. 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 agencies concerning any agency 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 agencies.

(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 agencies for the purpose of effecting improvements in the management and investment of state funds.

History: 1971 c. 125; 1977 c. 196 s. 130 (3); 1977 c. 272.

16.41 Agency accounting, information, aid. (1) All agencies 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 agencies shall also furnish to the secretary all information relating to their financial transactions which the secretary requests 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 agencies shall furnish such information concerning anticipated revenues and expenditures as the secretary requires for effective control of state finances.

History: 1977 c. 196 s. 130 (3); 1977 c. 272, 273.

16.415 Certification of payrolls. (1) 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 administrator then in effect.

(2) Any person entitled to be certified as described in sub. (1), 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.

(3) 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 or she shall be entitled to receive for personal 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; 1977 c. 196 ss. 63, 65, 130 (5), 131; 1977 c. 272 s. 98; 1977 c. 273

16.42 Agency requests. (1) All agencies, 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 the purpose or goal for each program or subprogram;

(b) Clear statements of specific objectives to be accomplished and, as appropriate, the performance measures to be used to assess progress toward achievement of these objectives;

(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 programmatic and financial plans; and

(e) All fiscal or other information relating to such agencies that the secretary or the governor requires on forms prescribed by the secretary. This information may include information required under s. 16.421 (1) (c) for selected agency activities.

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

History: 1971 c. 125, 215; 1973 c. 12, 333; 1975 c. 388; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272.

16.421 Performance assessment. (1) All departments other than the legislature and the courts, no later than 60 days subsequent to the passage of the biennial budget and in the form and content prescribed by the department, the legislative fiscal bureau and the legislative audit bureau shall prepare and forward to the department a biennial performance assessment plan. This plan shall include, but need not be limited to, the following information:

(a) A listing of selected departmental activities which are to be assessed during the biennium;

(b) The criteria used for selecting the activities;

(c) A plan for assessing each of the selected activities which includes at least the following items:

1. A statement of the specific objectives of each activity;

2. An identification of the performance measures to be used to assess progress toward and achievement of the objectives of each activity;

3. The resources budgeted to carry out each activity; and

4. A synopsis of the assessment design, including reporting requirements and implementation schedules.

(d) Identification of departmental resources allocated to perform the assessments.

(2) The plans of all departments shall include among those activities selected for assessment any that may be specifically required under s. 16.42 (1) (e).

(3) All departments shall provide such reports regarding implementation of their performance assessment plan as the department may require. All departments shall provide a summary of the results of the previous biennial performance assessment of each selected activity to the department and to the joint committee on finance at the time of submittal of their biennial performance assessment plan to the department.

(4) When required by the legislation creating a new activity:

(a) The administrator in charge of the new activity shall, within 60 days from the effective date of the new activity, prepare the information required under sub. (1) (c).

(b) The administrator in charge of the new activity shall submit such information to the legislative audit bureau, the legislative fiscal bureau and the department. The legislative audit bureau shall furnish one copy of such information to the chairperson of each standing committee, other than the joint committee on finance, which held a public hearing on the bill creating the new activity and except in the case of the biennial budget or budget review bill, shall furnish one copy to the principal author of that bill. The legislative fiscal bureau shall furnish one copy of such information to each cochairperson of the joint committee on finance.

(c) If the administrator fails to submit the information required under par. (a), the department shall withhold funds for the activity until such time as the required information is provided and shall report such failure to the joint committee on finance.

History: 1977 c. 29

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 or 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.

History: 1977 c. 29.

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. The governor or governor-elect may hold public hearings determined to be necessary to gather further information from agencies, interested citizens and others. The department of administration and all other agencies shall cooperate fully with the governor or governor-elect in providing information and analyses as requested.

History: 1973 c. 333; 1977 c. 196 s. 130 (3); 1977 c. 273

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 agencies 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; 1977 c. 196 s. 130 (3).

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 that is submitted to the secretary as provided in sub. (1) and approved by the secretary or the governor.

No additional positions above the number authorized through the biennial budget, budget review process or other legislative act may be granted without the approval of the joint committee on finance acting under s. 13.101, except for positions created from funds received under s. 16.54 or 20.001 (2) (b) or (c). The secretary may withhold, in total or in part, the funding for any position, as defined in s. 230.03 (11), as well as the funding for part-time or limited term employes until such time as the secretary determines that the filling of the position or the expending of funds is consistent with the intent of the legislature as established by law or in budget determinations, or the intent of the joint committee on finance acting under s. 13.101 or as otherwise provided by law, or the intent of the governor acting under s. 16.54 or creating positions funded under s. 20.001 (2) (b) or (c). Until such release of funding occurs, recruitment or certification for the position may not be undertaken. The secretary shall submit a quarterly report to the joint committee on finance of any additional positions created under s. 16.54 or 20.001 (2) (b) or (c). 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. At the request of the secretary of the department of employment relations, the secretary may authorize the temporary creation of pool or surplus positions under any source of funds if the secretary of the department of employment relations determines that temporary positions are necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, to fill positions for which recruitment is difficult. Surplus or pool positions authorized by the secretary shall be reported quarterly to the joint committee on finance in conjunction with the report required under s. 16.54 (8).

NOTE: Sub. (3) is shown as affected by chapters 29, 196 and 418, laws of 1977, as directed by 13.93 (2) (c). Ch. 418 purported to take into account the previous actions by chs. 29 and 196 but left out "acting under s. 13.101" as inserted by ch. 29.

(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.

(6) **Proportional spending.** If the secretary determines that expenditures of general purpose or segregated fund revenues are utilized to match revenues received under s. 16.54 or 20.001 (2) (b) for the purposes of combined program expenditure, the secretary may require that disbursements of the general purpose revenue be in direct proportion to the amount of program revenue available or as specified in ch. 20 or as condition of a grant or contract. If the secretary makes such a determination, the agency shall incorporate the necessary adjustments into the quarterly expenditure plans provided for in sub. (1).

History: 1971 c. 270; 1973 c. 333; 1975 c. 39; 1977 c. 29, 196, 418.

16.505 Position authorization. (1) No position, as defined in s. 230.03 (11), regardless of funding source or type, may be created unless authorized by one of the following:

(a) The legislature by law or in budget determinations.

(b) The joint committee on finance acting under s. 13.101 or as otherwise provided by law.

(c) The governor acting under s. 16.54 or creating positions funded under s. 20.001 (2) (b) or (c).

(2) If the secretary determines that the expenditure estimate established under s. 16.50 (1) for any agency so warrants, the secretary may require an agency to seek prior approval to expend funds for any position, including limited term employment. The secretary may also require any agency to comply with the procedures for entering position information for limited term employes into the informational system established under s. 16.004 (7).

History: 1977 c. 196, 418.

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; 1977 c. 418.

NOTE: Chapter 418, laws of 1977, amends sub. (7), effective January 1, 1981, to read:

"16.51 (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 the county, which are presented for payment to reimburse the 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 prisoners transferred to a mental health institute for observation or treatment, when the proceedings are commenced in counties in which the prisons are located by a district attorney or by the prisoner as a postconviction remedy or a matter involving the prisoner's status as a prisoner. Expenses shall only include the 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."

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. 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, agencies 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 agencies to completely reconcile their records with the department of administration by said date. Each agency shall delegate to some individual the responsibility of reconciling its accounts as herein provided and shall certify the individual's name to the secretary. As soon as a reconciliation has been effected, the agency shall advise the secretary in writing of such fact and shall forward to the secretary a copy of such reconciliation. If any agency 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 agency 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 or her approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order governs the fiscal year to which the contract or order is chargeable, unless the secretary determines that the purpose of the contract or order is to prevent lapsing of appropriations or to otherwise circumvent budgetary intent. Upon such approval, the secretary shall immediately encumber all contracts or orders, and indicate the fiscal year to which they are chargeable.

(b) Pursuant to s. 16.72 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 agencies 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 agencies, 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 agencies 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.

(10) DEPARTMENT OF PUBLIC INSTRUCTION. The provisions of sub. (2) with respect to refunds and sub. (5) (a) with respect to reimbursements for the prior fiscal year shall not apply to the appropriation under s. 20.255 (1) (f).

(11) SECRETARY TO ALLOCATE DEPARTMENTAL CENTRAL SERVICES COSTS. The secretary may allocate and charge, and may prescribe the procedures for departments to allocate and charge, the central services costs of the department of administration or of individual departments to selected federal grants or contracts. The charges to departments for the central services costs incurred by the department of administration and the indirect costs incurred by the departments in the administration of federally-aided programs under grants or contracts shall be made in accordance with the procedures adopted by the secretary.

History: 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418.

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 (1) (d).

History: 1977 c. 196 s. 131.

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. Such rules shall be consistent with the uniform guidelines established under s. 20.916 (8). Each claim shall be approved by the employe's appointing authority, as defined in s. 230.03 (4), or the appointing authority's 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, when payable.* 1. The secretary, with the approval of the joint committee on employment relations, shall fix the time and frequency for payment of salaries due elective and appointive officers and employes of the state government. As determined under this subdivision such salaries shall be paid either monthly, semimonthly or for each 2-week period, and fringe benefit costs for benefits under chs. 102 and 108 which are paid on an actual basis may be collected on an estimated or premium basis, credited to appropriate appropriations, and paid from the appropriations on an actual basis.

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. 812.23 including rules superseding s. 812.18 (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 justice 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 the manner provided in sub. (1), in duplicate, and shall be filed in the office of the secretary. The secretary shall examine the same, ascertain whether ordered by competent authority and, if properly made, designate the fund to which they are chargeable. Except in the case of claims described under s. 16.007 (6) (b), 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 a warrant therefor on the treasurer, shall see that the proper account on which such appropriation is based is filed in the secretary's 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 may withhold the transfer of such appropriation or any part thereof from the general fund until the moneys required to pay outstanding claims are duly audited and disbursed. Such authority is not limited to the fiscal year of the appropriation if the liability is properly recognized and recorded.

(10) *PRIORITY OF CLAIMS.* If, between February 22, 1976 and 30 days after the publication of the budget adopted for the 1977-79 fiscal biennium, an emergency arises which requires the department to draw vouchers for payments which will be in excess of available funds in any

state fund, the secretary, in consultation with the state treasurer and the joint committee on finance, may prorate and establish priority schedules for all payments, including those payments for which a specific payment date is provided by statute. The secretary shall draw all vouchers according to the following preference. All direct or indirect payments of principal or interest on state bonds and notes have first priority and may not be prorated or reduced under this subsection. All state employe payrolls shall have 2nd priority. All payments to local units of government which are required by statute to be made on a specific date and all aid payments to individuals have 3rd priority. All remaining payments have 4th priority. The secretary shall maintain records of all claims prorated under this subsection and shall provide written notice to the state treasurer when a potential cash flow emergency is anticipated.

(11) INTEREST ON PRORATED PAYMENTS. Payments prorated under sub. (10) which are payable to local units of government shall earn interest on the daily unpaid balance at the rates of interest earned by the state investment fund during the calendar quarter in which the proration occurred. The interest payments under this subsection shall be credited to the respective local units of government at the end of the quarter in which the proration occurred.

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 W (2d) 773; 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418.

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

(a) "Employee" 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.

(c) "Headquarters city" includes the area within the city or village limits, if any, where an employe's permanent work site is located and the area within a radius of 15 miles from the employe's permanent work site.

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

(3) MEALS. Subject to the limitation prescribed in sub. (7) (b), employes shall be reimbursed for all reasonable amounts expended for their own meals incurred in the performance of their official duties. 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 portage, not exceeding \$1 for each stay at a hotel or motel.

(5) EXPENSES IN AN EMPLOYE'S HEADQUARTER 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 such person's representative may 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.

(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. (a) Each voucher claim for travel expenses shall be approved by the head of the employe's agency or that person's designee. Such approval represents concurrence with the necessity and reasonableness of each expense. Such approval shall accompany the travel voucher. The expense voucher shall be audited by the agency financial office and then submitted to the department for final audit before payment.

(b) The department may not approve for payment any travel vouchers which exceed the maximum travel schedule amounts which are

established under s. 20.916 (8), except in unusual circumstances when accompanied by a receipt and full explanation of the reasonableness of such expense.

(c) The department of administration shall not approve for payment any travel vouchers which exceed the auto mileage rates set under s. 20.916 (4) (a).

History: 1975 c. 39, 189; 1977 c. 418

Guidelines in setting the use of an automobile as a condition of employment. 61 Atty Gen 210

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.

(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 joint committee on finance 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.

(9) The department of administration shall coordinate the development of a statewide indirect cost allocation plan to be used by all departments as part of their indirect cost allocation plans prepared as part of the federal grant application process. All departments shall prepare individual, specific, indirect cost allocation plans in accordance with federal regulations and procedures established by the secretary. Departments shall annually file a copy of their updated indirect cost allocation plans with the secretary. The secretary may modify any plan to bring it into compliance with applicable state laws or procedures established under s. 16.52 or this section, and to maintain consistency between the plans of the various departments.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418

Wisconsin may enter into an agreement with the federal government for the development, administration and enforcement, at state level, of occupational safety and health laws meeting federal standards. 61 Atty Gen 353

See note to 38.08, citing 63 Atty Gen 453, as to (6)

Governor may authorize counties to channel CETA funds through private nonprofit agencies. 66 Atty Gen 15

16.543 Procedure in the event of reduced federal revenue sharing funds. (1) If the state is to receive less federal revenue sharing funds in any year than the amount anticipated, the governor shall submit to the joint committee on finance, for its approval, a recommendation to adjust the appropriations under ch. 20 to account for such reduction of federal revenue sharing funds. Upon receipt of such recommendation the committee shall meet and consider

the recommendation in accordance with the procedures specified under s. 13.101 (6). Any recommendation approved under this section shall be implemented by the department under s. 16.50 (2).

(2) If the status of federal revenue sharing funds in any year is not known by the last working day in October, the governor, with the approval of the joint committee on finance, may extend the date of certification provided in s. 120.12 (3) to November 15 for that year.

History: 1977 c. 29.

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 under 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 contact 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.

History: 1975 c. 39.

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.

16.61 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) "Board" means the public records board.

(b) "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, except the records and correspondence of any member of the state legislature.

(c) "Records series" means documents, volumes or folders that are arranged under a

single filing system, or are kept together as a unit because they relate to a particular subject, result from the same activity, or have a particular form.

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

(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, county, town, city, village or school district, 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) May establish the minimum period of time for retention before destruction of any city, town or village record.

(4) APPROVAL FOR DISPOSITION OF RECORDS. All public records made or received by or in the custody of a state agency shall be and remain the property of the state. Such records may not be disposed of without the written approval of the board. State agencies shall submit records disposal authorizations for all public records series in their custody to the board for its approval within one year after each record series has been received or created unless a shorter period of retention is authorized by law, in which case authorization shall be submitted within that period. The board is authorized to alter retention periods for all records series; but if retention for a certain period is specifically required by law, the board may not decrease the length of that period.

(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 a designated representative shall forward to the board an inventory of the records involved, certifying that as far as the 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. 16.61.

(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 to do so in the course of carrying out 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 micro-filming or other reproduction without the approval of the board as provided in sub. (4).

(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 the custodian's 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 an 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.

History: 1975 c. 41 ss. 15, 52; 1975 c. 198 s. 65; 1975 c. 199; 1977 c. 418.

See note to 19.21, citing 63 Atty. Gen. 400, concerning governor's records.

16.62 Records management service. (1)

The department shall establish and maintain a records management service:

(a) To advise and assist state agencies in the establishment and operation of records management programs through the issuance of standards and procedures and provision of technical and management consulting services.

(b) To operate a state records center and a central microfilm facility for state agencies and to develop rules as necessary for efficient operation of the facilities.

(c) To periodically audit state agencies' records management programs and recommend improvements in records management practices.

(2) The department may establish user charges for records storage and retrieval services, with any moneys collected to be credited to the appropriation under s. 20.505 (1) (i) or (L). Such charges shall be structured to encourage efficient utilization of the services.

History: 1975 c. 41, 224; 1977 c. 29, 418.

SUBCHAPTER IV
PURCHASING

16.70 Purchasing; definitions. As used in this subchapter 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) "Permanent personal property" means any and all property which in the opinion of the secretary will have a life of more than 2 years.

(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; 1975 c. 41 s. 52; 1977 c. 29.

"Contractual services" under (4) include technical and professional services. 65 Atty. Gen. 251.

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

History: 1977 c. 196 s. 31.

It is possible for the state to lease one of its parking facilities to an independent contractor upon a finding that an independent contractor can perform the service of operating and maintaining the parking facility more economically or more efficiently than the civil service system. 62 Atty. Gen. 183.

16.71 Purchasing; powers. The department shall purchase and may delegate to special designated agents the authority to purchase 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 offices. All such materials, services and other things and expense furnished to any such office shall be charged to the proper appropriations of the departments to which furnished, as provided in s. 20.505.

History: 1977 c. 418.

Applicability of subch. IV is determined by the purpose for the purchase, not the source of funds. 64 Atty. Gen. 4.

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) (a) 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.

(b) The department shall prepare or review specifications for all materials, supplies, equipment, other permanent personal property and contractual services not purchased under standard specifications. Such "nonstandard specifications" may be generic or performance specifications, or both, prepared to describe in detail the article which the state desires to purchase either by its physical properties or programmatic utility. When appropriate for such nonstandard items or services, trade names may be used to identify what the state requires, but wherever possible 2 or more trade names shall be designated and the trade name of any Wisconsin producer, distributor or supplier shall appear first.

(3) 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.

(4) (a) Except as otherwise provided in this subchapter and 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.

(b) The department shall 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 the same.

History: 1975 c. 41; 1977 c. 418.

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) (a) All orders awarded or contracts made by the department for all materials, supplies, equipment

and contractual services, except as otherwise provided in subs. (2), (6) and (7), 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, equipment and contractual services of Wisconsin producers, distributors, suppliers and retailers. Bids shall be received only in accordance with such 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. Where a low bid is rejected, a complete written record shall be compiled and filed, giving the reason in full for such action. Any waiver of sealed, advertised bids as provided in sub. (6) shall be entered on a record kept by the department and open to public inspection.

(b) When the estimated cost exceeds \$10,000, due notice inviting bids 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 materials, supplies, equipment or service to be purchased, the amount of the bond or check to be submitted as surety with the bid and the date of public opening.

(c) When the estimated cost is \$10,000 or less, the lowest responsible bidder shall be selected in accordance with simplified bidding procedures established by the department for such contracts.

(2) (a) 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.

(b) When the department determines that utility services are available only from a sole source as a result of regulation or of a natural monopoly, these services may be obtained without compliance with the usual procedure under this section.

(3) The department 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 is contingent upon appropriation of the necessary funds. Contracts, except those specified in s. 16.76 (2), may be for any term deemed to be in the best interests of the state but the terms and provisions for renewal or extension, if any, shall be incorporated in the bid specifications and the contract document.

(4) (a) The department shall encourage the participation of small businesses in the state-wide purchasing program by ensuring that there are no undue impediments to such participation and by actively encouraging small businesses to play an active role in the solicitation of public purchasing business. To that end the department shall:

1. Maintain a comprehensive bidders list of small state businesses which have demonstrated the capacity of providing materials, supplies, equipment or contractual services to the state;

2. Develop ways of simplifying specifications and terms so that they will not impose unnecessary administrative burdens on small state businesses which submit bids to the state;

3. Assist small state businesses in complying with state bidding procedures;

4. Notify businesses on the list maintained under subd. 1 of office purchasing requests for which the businesses may wish to submit a bid; and

5. By May 1 of each year, submit a report to the council on small and minority business opportunities which evaluates the performance of small Wisconsin businesses submitting bids to the state and makes recommendations for increased involvement of such businesses in bidding under this section.

(b) The department shall seek the cooperation and assistance of the department of business development in the performance of its duties under par. (a).

(c) In this section and s. 16.755, "small business" means a business which has had less than \$1.5 million in gross annual sales in the most recent calendar or fiscal year.

(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) (a) Subsections (1) to (5), except as to their requirements in connection with printing and stationery, do not 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. Each individual waiver shall be entered on a record as specified in sub. (1), which shall be open to public inspection.

(b) The governor may issue a general waiver covering a fiscal year or any shorter period of time under this subsection with respect to purchase of specified materials, supplies, equipment and contractual services, except printing and stationery, from private sources when the governor deems such action to be in the best interest of the state, and may impose such conditions and restrictions on the waiver as he or she deems appropriate or necessary. Each general waiver shall be entered on a record, as specified in sub. (1), which shall be open to public inspection.

(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).

History: 1975 c. 224; 1977 c. 418, 419.

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, 210 NW (2d) 745.

State contracts for the purchase of professional architectural and engineering consulting services must comply with the bidding requirements of (1) unless waived by the Governor. 65 Atty Gen. 251.

16.755 Council on small and minority business opportunities. The council on small and minority business opportunities shall:

(1) Review the extent of small business participation in purchasing by this state and its subdivisions.

(2) Advise the department's purchasing agent with respect to methods of increasing such participation.

(3) Advise the department's purchasing agent with respect to methods of simplifying or easing compliance with the forms and procedures used or to be used for obtaining contracts with the state for providing materials, supplies, equipment and contractual services.

(4) Advise the department concerning methods of improved compliance with any aspect of its duties under s. 16.75 (4) (a).

(5) Annually, submit in its report under s. 15.09 (7) any recommendations regarding the

matters described in subs (1) to (4) to the governor and the legislature.

History: 1977 c. 418 s. 929 (55); 1977 c. 419.

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 agencies, 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; 1977 c. 196 s. 130 (3)

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 age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5) or national origin, and obligating the contractor to take affirmative action to ensure equal employment opportunities.

(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 age, race, religion, color, handicap, sex, physical condition,

developmental disability as defined in s. 51.01 (5) or national origin. This 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 further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees 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 department.

(4) The contracting agencies of the state shall take appropriate action to revise the standard government contract forms under 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 and affirmative action provisions prescribed by this section, according to procedures recommended by the department. The department shall make recommendations to the contracting agencies for improving and making more effective the nondiscrimination and affirmative action provisions of contracts. The department shall promulgate such rules as may be necessary for the performance of its functions under this section.

(6) The department may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. The department shall investigate and determine whether a violation of this section has occurred. The department may delegate this authority to the contracting agency for processing in accordance with the department's procedures.

(7) When a violation of this section has been determined by the department or the contracting agency, the contracting 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

contracting agency involved may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting 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 department. No state contract may be approved and let to any party on such list of ineligible contractors. The department may remove the name of any party from the ineligible list of contractors if the department determines that the contractor's employment practices comply with this section and provide adequate safeguards for its observance.

(10) The department shall refer any individual complaints of discrimination which are subject to investigation under ss. 111.31 to 111.37 to the department of industry, labor and human relations.

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

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418.

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 and the department may sell at cost such stored articles to municipalities. For purposes of this section "municipality" has the meaning designated in ss. 59.01 (1) and 66.29 (1) (b).

History: 1975 c. 225

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.

16.82 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 joint committee on finance 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.

(5) Shall promote and encourage among departments and their employes alternate means of transportation for state employes including but not limited to mass transit, car pooling and van pooling; and may provide contract group transportation from designated pickup points to work sites and return in the absence of convenient and public scheduled transportation. The group transportation shall be provided for a fee which recovers the full cost of maintenance, operation, insurance and depreciation. An employe shall be deemed not to be in the course of employment while utilizing the group transportation.

History: 1971 c. 125; 1975 c. 39 s. 732 (1); 1977 c. 29.

16.825 Council on printing. (1) The council on printing shall confer with the secretary on

policies and procedures with respect to the printing activities of the state and advise the secretary 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 internal management 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 the 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; 1977 c. 26, 273

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 office of the governor shall be located in the capitol. The attorney general, lieutenant governor, supreme

court, state treasurer and secretary of state shall each keep a room in the capitol. From the remaining capitol space not reserved for the use of the legislature, the department may assign additional rooms to be used by the attorney general, state treasurer and secretary of state.

History: 1977 c. 3, 447

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. 16.843 (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 employes 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 co-operate 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 as 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. Any person found guilty of violating one of these rules shall, unless the rule violated prescribes a lesser penalty, be fined not more than \$100 or imprisoned not more than 30 days, or both.

History: 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418.

16.843 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 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) and only emergency police regulations or city ordinances of the city of Madison are applicable to such areas. The department of administration shall mark and post the areas and number the parking spaces therein. Parking of automobiles in these areas is permitted only by persons whose automobiles are identified as specified in sub. (4), and the parking therein of any other vehicle is prohibited 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 or their designees may park automobiles identified as provided by sub. (4) in assigned parking stalls and spaces in the parking areas designated in subs. (1) (b) and (2).

(a) Legislators and constitutional officers.

(b) Officers of the senate and assembly.

(c) Such state officers and employees as the governor directs, not to exceed 15.

(4) To facilitate the administration of sub. (3), the state protective service shall procure numbered identification tags which correspond with the numbered parking stalls and spaces, and shall issue such tags to applicants eligible under sub. (3) in accordance with rules promulgated by the joint committee on legislative organization.

(5) Notwithstanding the limited allocation of parking areas for state purposes under sub. (1), the enforcement of parking regulations on the capitol park side of the 4 streets surrounding the state capitol park is vested exclusively in the designated employees of the state protective service.

History: 1975 c. 41, 267, 422.

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 department of transportation 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 co-operation 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; 1977 c. 29 s. 1654 (8) (c).

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 \$30,000, except as provided in s. 13.48 (19). 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 \$30,000, or if less and in the best interest of the state, 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 liability to the

amount of the bidder's bid guarantee by giving written notice of intent not to execute the contract to the department within 72 hours of the bid opening. The department of administration, with the approval of the attorney general, may settle and dispose of cases and issues arising under this subsection. However, if no such settlement is obtained, the bidder is not entitled to recover the bid guarantee unless the bidder proves in the circuit court for Dane county that in making the mistake, error or omission the bidder 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.

(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 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 bidder or 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 or with respect to contracting with public utilities, but only when any such waiver is deemed by the governor to be in the best interests of the state. In emergency situations, the governor may approve repairs and construction in lieu of building commission approval under s. 13.48 (10), and for such purposes, may authorize the release of up to \$50,000 of building trust funds or the use of other available appropriated revenues, but such approvals shall be reported to the building commission at their next regular meeting.

(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 and at Heritage Hill state park when the department determines that a waiver of this section would serve the best interests of this state.

(19) As the work progresses under any contract for construction the department, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which shall entitle the contractor to receive the amount thereof, less the retainage, from the proper fund. On all construction projects, the retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50%

completion, no additional amounts shall be retained, and partial payments shall be made in full to the contractor unless the architect or engineer certifies that the job is not proceeding satisfactorily. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418

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, 197 NW (2d) 737.

A bid proposal asking for the name of a subcontractor is contrary to (13) (a), and the request is invalid. 61 Atty. Gen. 224.

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 agencies which would satisfactorily eliminate or reduce the existing exposure.

(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 agencies, 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 agencies 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 agencies in implementation of sound risk management practices.

(6) Have the authority to contract for investigative and adjustment services as provided in s. 20.865 (1) (fm) which can be performed more economically or efficiently by such contract.

History: 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3).

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 be exempt from the requirements of ss. 16.705 and 16.75, and shall, before it becomes valid or effectual for any purpose, have indorsed thereon in writing the approval thereof of the secretary or a 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 or a designee. Any change orders to contracts requiring approval under this section shall require prior approval by the secretary or a designated assistant, and any such change orders over \$15,000 shall also have the approval of the governor.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 418.

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.

16.94 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: 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 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 capital and its contents.

History: 1975 c. 41 s. 51.

SUBCHAPTER VI

STATE PLANNING AND ENERGY

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 energy, 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.

(12) Prepare and maintain contingency plans for responding to critical energy shortages so that when the shortages occur they can be dealt with quickly and effectively.

History: 1977 c. 29.

16.955 Energy administration. (1) INFORMATION. Upon declaration of an energy emergency by the governor, the department may issue general or special orders, as defined in s. 101.01 (1) (f), or emergency rules under ch. 227 to compel disclosure of information required for purposes of this section. Any person, or agent of the person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who is subject to an emergency rule or general or special order of the department within reasonable time limits specified in the order shall file or furnish such reports, information, data, copies of extracts of originals as the department deems necessary relating to existing and future energy supplies, including but not limited to record of sales in years for 1970 and thereafter, storage capacity, supplies on hand and anticipated supplies, and anticipated demand. To the extent that the reports and data requested by the department are presently available from other state or federal agencies, the department shall coordinate its data reporting requirements with the agencies to avoid duplication of reporting. In this subsection, "energy emergency" has the meaning given under s. 115.01 (21).

(2) INFORMATION TO BE CONFIDENTIAL. All information furnished under sub. (1) shall be considered a confidential trade secret and may be compiled or published only for purposes of general statistical comparison. The information may be disclosed to agencies of the state or of the federal government, under the same or similar rules of confidentiality.

(3) PENALTIES AND JUDICIAL RELIEF. (a) Any person, or agent of a person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who fails to provide information requested by the department at the time and in the manner specified by the department shall forfeit an amount not to exceed \$1,000. Each day the violation of this section continues from the day notice has been received constitutes a separate offense.

(b) Upon request of the department, the attorney general or the district attorney of the proper county may aid in any investigation, enforce any request of the department for information under this section or seek forfeitures for violations of this section.

(c) Upon request of the department, the attorney general or the district attorney of the proper county may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this section.

(d) The remedies under this section shall not be exclusive.

(4) HEARINGS; EVIDENCE; WITNESS FEES.

(a) The department or any of its authorized agents may, in relation to any matter arising under this section, conduct hearings, administer oaths, issue subpoenas and take testimony.

(b) The witnesses subpoenaed by the department or its agent and officers who serve subpoenas shall be entitled to the fees allowed in courts of record. The fees shall be audited and paid by the state in the same manner as other expenses of the department are audited and paid. No witness subpoenaed at the instance of any party other than the department is entitled to payment of fees by the state, unless the department certifies that the testimony of the witness was material.

(c) Any person who unlawfully fails to attend as a witness or refuses to testify may be compelled to do so as provided in s. 885.12.

(d) A record of all hearings shall be kept by the department. All hearings shall be public.

History: 1977 c. 29.

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 revenue sharing distribution under ch. 79. For this purpose:

(a) On or before August 10 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 10 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.

(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 10 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 10 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 revenue 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 revenue 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 coordinating council for population information shall advise the secretary concerning the conduct of the demographic services center including the preparation of population determinations under this section, the coordination of demographic data development and use and the search for maximum utility and reliability of population information developed for public purposes.

(3) Establish a demographic services center to develop and administer such systems needed to carry out the functions required under subs. (1) and (2) to maintain a current repository of appropriate published and computer retrievable federal census information and cooperate with state agencies and regional planning agencies so that the department's population estimates, projections and published reports will be useful for the many planning and other purposes for which they are required. The department may enter into agreements with state and local agencies or regional planning agencies for their assistance in the preparation of population estimates, projections and forecasts.

(4) Coordinate population information development and use. In performing these coordination functions, the department shall consult with and study recommendations of the coordinating council for population information.

History: 1971 c. 215; 1973 c. 37, 333; 1975 c. 189; 1977 c. 29 ss. 93 to 95, 1648 (1), (3).

16.965 Aerial photographic survey. (1) The department shall make an aerial photographic survey of the state to provide the basis for state planning, and resource and forestry management. In order to carry out this responsibility, the department:

(a) Shall consult with the department of natural resources, the department of transportation and the state cartographer, and may consult

with other potential users of the photographic products resulting from the survey, to determine the scope and character of the survey.

(b) May contract with other state agencies or nongovernmental entities to carry out the photographic imagery acquisition phases of the survey and to prepare specific photographic products for use by federal, state and local agencies and the general public.

(2) After consultation with the department of transportation and the state cartographer, the department shall select the photographic products to be sold by the department of transportation under s. 85.10 (3). The department shall also determine the price at which the products are sold. The sale price shall be established annually at a level which represents the cost of producing the photographic products sold under s. 85.10 (3) and a reasonable portion of the costs incurred under this section and s. 85.10.

History: 1977 c. 418.

16.966 1980 decennial census. The department may contract with the U.S. bureau of the census for the acquisition by the department of those block statistics not routinely furnished by the U.S. bureau of the census from the 1980 U.S. decennial census of population and housing that the department requires for planning and redistricting purposes. Payments under the contract shall be made from the appropriation under s. 20.865 (2) (f).

History: 1977 c. 418.

SUBCHAPTER VII

DATA PROCESSING

16.97 Powers and duties. (1) The department shall insure optimum efficiency and economy in all agencies' 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.

(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 process and which is to be financed from general purpose or segregated revenues of the state must have prior approval from the joint committee on finance acting under s. 13.101. Any additional equipment to be acquired from program revenues need not have prior approval but must be reported to the joint committee on finance.

(3) The department may license or authorize state agencies to license computer programs to the federal government, other states and municipalities. For the purpose of this section "municipality" has the meaning designated in ss. 59.001 (3) and 66.29 (1) (b) and "computer programs" are the processes for the treatment and verbalization of data and are not subject to s. 19.21 (2) as distinguished from the data themselves, which are public records. Annual license fees may be up to 25% of the program development cost and shall be credited to the agency leasing the program.

History: 1971 c. 261; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 130 (3).

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) or (L). 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; 1977 c. 29.

SUBCHAPTER IX

TELECOMMUNICATIONS

16.99 Telecommunications operations and planning. (1) DEFINITION.

In this section, "telecommunications" mean all services and facilities capable of transmitting, switching or receiving information in any form, by wire, radio or other electronic means.

(2) POWERS AND DUTIES. The department shall ensure maximum utility, cost-benefit and operational efficiency of all telecommunications systems and activities of this state, and those which interface with cities, counties, other states and the federal government. The department, with the assistance and cooperation of all other departments, shall:

(a) Develop and maintain a statewide long-range telecommunications plan, which will serve as a major element for budget preparation, as guidance for technical implementation and as a means of ensuring the maximum use of shared systems by departments when this would result in operational or economic improvements or both.

(b) Develop policy, standards and technical and procedural guidelines to ensure a coordinated and cost-effective approach to telecommunications system acquisition and utilization.

(c) Maintain a comprehensive inventory of all state-owned or leased telecommunications equipment and services.

(d) Monitor overall state expenditures for telecommunications systems and prepare an annual financial report on such expenditures.

(e) Review the operation of all telecommunications systems of this state to ensure technical sufficiency, adequacy and consistency with goals and objectives.

(f) Perform the functions of agency telecommunications officer for those departments with no designated focal point for telecommunications planning, coordination, technical review and procurement.

History: 1977 c. 418.