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Assembly Bill 2

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CHAPTER 195, Laws of 1977

AN ACT to repeal 102.42 (4); to renumber 102.17 (1) (am) to (d) and 102.42 (5) to (7), (9) and (10); to renumber and amend 102.42 (8); to amend 56.21, 102.03

(4), 102.11 (1) (intro.) and (d), 102.17 (4), 102.18 (4) (b), 102.22 (2), 102.23 (1) (intro.) and (a), 102.25 (1), 102.31 (1) (a), 102.32 (6), 102.35 (3), 102.44 (1) (intro.), (a) and (b) and (2), 102.47 (2), 102.49 (5) (b) and (6), 102.50, 102.51 (1) and (4), 102.555 (3), 102.56, 102.565 (1), 102.59 (2), 102.60 (3) and (9), 102.64 (1) and 102.75 (2); to repeal and recreate 102.03 (2), 102.28 (2), 102.29 (4) and (5), 102.42 (2) and (3) and 102.49 (1); and to create 102.16 (5), 102.17 (1) (b), 102.23 (6), 102.28 (1) (title) and (3) to (8) (titles), 102.43 (7) and (8) and 102.49 (5) (e) of the statutes, relating to various changes in the worker's compensation law.

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

SECTION 1. 56.21 of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

56.21 Compensation to injured prisoners. If an inmate of a state institution, in the performance of assigned work is injured so as to be permanently incapacitated or to have materially reduced earning power, the inmate may, upon being released from such institution, either upon parole or upon final discharge, be allowed and paid such compensation as the department of industry, labor and human relations finds the inmate entitled to. The inmate shall be compensated on the same basis as if the injury had been covered by ch. 102, except that the total paid to any such inmate shall ~~may~~ not exceed ~~\$5,000~~ \$10,000 and may be paid in instalments. If the injury results from employment in a prison industry, the payment shall be made from the revolving appropriation for its operation. If there is no revolving appropriation, payment shall be made from the general fund. In case of dispute, the procedure for hearing, award and appeal shall be as set forth in ss. 102.16 to 102.26.

SECTION 2. 102.03 (2) of the statutes is repealed and recreated to read:

102.03 (2) Where such conditions exist the right to the recovery of compensation under this chapter shall be the exclusive remedy against the employer, any other employe of the same employer and the worker's compensation insurance carrier. This section does not limit the right of an employe to bring action against any coemploye for an assault intended to cause bodily harm, or against a coemploye for negligent operation of a motor vehicle not owned or leased by the employer, or against a coemploye of the same employer to the extent that there would be liability of a governmental unit to pay judgments against employes under s. 895.46, a collective bargaining agreement, or a local ordinance.

SECTION 3. 102.03 (4) of the statutes is amended to read:

102.03 (4) The right to compensation and the amount thereof shall in all cases be determined in accordance with the provisions of law in effect as of the date of the injury, ~~except that an employe, whose claim for benefits under this chapter was denied on the grounds that wage payments to him were not in lieu of compensation, may apply for benefits within 30 days after June 10, 1972, as if the injury was sustained within 2 years of such application, when he was employed by a municipality which had knowledge of the occurrence of such disabling injury to such employe prior to 1945 and except as to employes who are entitled to changes in the whose rate of compensation is changed as provided in s. ss. 102.43 (1) and 102.44 (1) and (2).~~

SECTION 4. 102.11 (1) (intro.) and (d) of the statutes are amended to read:

102.11 (1) (intro.) The average weekly earnings for temporary disability, permanent total disability or death benefits for injury on or after January 1, ~~1976~~ 1978, shall be taken at not less than \$30 nor more than such wage rate as will result in a maximum compensation rate of 100% of the state's average weekly earnings as determined under s. 108.05 as of June 30, ~~1975~~ 1977. The maximum weekly compensation rate after December 31, ~~1976~~ 1978, is 100% of the average weekly earnings determined as of June 30, ~~1976~~ 1978. The average weekly earnings for permanent partial disability for injuries after January 1, ~~1976~~ 1978, shall be taken at

not less than \$30 nor more than ~~\$85.50~~ \$97.50, resulting in a weekly maximum compensation rate of ~~\$57~~ \$65. Between such limits the average weekly earnings shall be determined as follows:

(d) Except in situations where ~~paragraph~~ par. (b) applies, average weekly earnings shall in no case be less than actual average earnings of the employe for the calendar weeks during the year before his or her injury within which the employe has been employed in the business, in the kind of employment and for the employer for whom ~~he~~ the employe worked when injured. Calendar weeks within which no work was performed shall not be considered under this ~~provision~~ paragraph. This paragraph ~~shall be applicable~~ applies only if the employe has worked within each week of at least ~~six~~ 6 calendar weeks during the year before his or her injury in the business, in the kind of employment and for the employer for whom ~~he~~ the employe worked when injured. For purposes of this section, earnings for part-time services performed for a labor organization pursuant to a collective bargaining agreement between the employer and that labor organization shall be considered as part of the total earnings in the preceding 52 weeks, whether payment is made by the labor organization or the employer.

SECTION 5. 102.16 (5) of the statutes is created to read:

102.16 (5) No agreement by an employe to waive the right to compensation is valid.

SECTION 6. 102.17 (1) (am) and (as) of the statutes are renumbered 102.17 (1) (c) and (d), respectively.

SECTION 7. 102.17 (1) (b) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 102.17 (1) (e).

SECTION 8. 102.17 (1) (b) of the statutes is created to read:

102.17 (1) (b) In any dispute or controversy pending before the department, the department may direct the parties to appear before an examiner for a conference to consider the clarification of issues, the joining of additional parties, the necessity or desirability of amendments to the pleadings, the obtaining of admissions of fact or of documents, records, reports and bills which may avoid unnecessary proof and such other matters as may aid in disposition of the dispute or controversy.

SECTION 9. 102.17 (1) (bm) of the statutes, as affected by chapter 29, laws of 1977, is renumbered 102.17 (1) (f).

SECTION 10. 102.17 (1) (c) and (d) of the statutes are renumbered 102.17 (1) (g) and (h), respectively.

SECTION 11. 102.17 (4) of the statutes is amended to read:

102.17 (4) The right of an employe, the employe's legal representative or dependent to proceed under this section shall not extend beyond ~~6~~ 10 years from the date of the injury or death or from the date that compensation, other than treatment or burial expenses, was last paid, or would have been last payable if no advancement were made, whichever date is latest. In case of injury or death caused by lung disease or by exposure to a toxic substance or to ionized radiation the time limit shall be 12 years ~~but~~ and in the case of occupational disease there shall be no statute of limitations, except that benefits or treatment expense becoming due after the ~~6-year~~ 10-year period set forth in this subsection or 12 years from the date of injury or death or last payment of compensation in cases of lung disease or exposure to a toxic substance or ionized radiation, shall be paid from the work injury supplemental benefit fund under s. 102.65 and in the manner provided in s. 102.66. Payment of wages by the employer during disability or absence from work to obtain treatment shall be deemed payment of compensation for the purpose of this section if the employer knew of the employe's condition and its alleged relation to the employment.

SECTION 12. 102.18 (4) (b) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

102.18 (4) (b) On motion, the commission may set aside, modify or change any order, findings or award, whether made by an examiner or the commission, at any time within 20 days from the date thereof if it discovers any mistake therein, or upon the grounds of newly discovered evidence. Unless an order granting or denying a motion based upon the grounds of newly discovered evidence is made by the commission within such 20 day period, the motion is deemed denied. The commission may on its own motion, for reasons it deems sufficient, set aside any final order or award of the commission or examiner within one year from the date thereof upon grounds of mistake or newly discovered evidence, and after extending an opportunity for hearing may make new findings and order, or it may reinstate the previous findings and order or award or remand the case to the department for further proceedings.

SECTION 13. 102.22 (2) of the statutes is amended to read:

102.22 (2) If the sum ordered by the department to be paid is not paid when due, such sum shall bear interest at the rate of ~~6%~~ 7% per annum. The state ~~shall be~~ is liable for such interest on awards issued against it under this chapter. The department ~~shall have~~ has jurisdiction to issue award for payment of such interest at any time within one year of the date of its order, or upon appeal within one year after final court determination.

SECTION 14. 102.23 (1) (intro.) and (a) of the statutes, as affected by chapter 29, laws of 1977, are amended to read:

102.23 (1) (intro.) The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive. The order or award granting or denying compensation, either interlocutory or final, whether judgment has been rendered thereon or not, ~~shall be~~ is subject to review only in the manner and upon the grounds following and not under ch. 227 or s. 801.02: Within 30 days from the date of an order or award made by the commission either originally or following the filing of petition for review with the department under s. 102.18 any party aggrieved thereby may by service as provided in par. (a) commence, in the circuit court for Dane county, an action against the department for the review of such order or award, in which action the adverse party shall also be made defendant.

(a) In such action a complaint, which need not be verified, but which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary, or deputy secretary shall be deemed completed service on all parties, but there shall be left with the person so served as many copies of the summons and complaint as there are defendants, and the department shall mail one such copy to each other defendant. If the circuit court is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any finding or order it may extend the time another 30 days in which such action may be commenced. If summons and complaint is not filed within 6 months from date of service, such service is void.

SECTION 15. 102.23 (6) of the statutes is created to read:

102.23 (6) If the commission's order or award depends on any fact found by the commission, the court shall not substitute its judgment for that of the commission as to the weight or credibility of the evidence on any finding of fact. The court may, however, set aside the commission's order or award and remand the case to the commission if the commission's order or award depends on any material and controverted finding of fact that is not supported by credible and substantial evidence.

SECTION 16. 102.25 (1) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

102.25 (1) Any party ~~except the department~~, aggrieved by a judgment entered upon the review of any order or award, may appeal therefrom within 30 days from the date of service by either party upon the other of notice of entry of judgment. However, it ~~shall be~~ is not necessary for the department or any party to the action to execute, serve or file the undertaking required by s. 817.11 (3) or to serve, or secure approval of, the transcript of reporter's notes. All such appeals shall be placed on the calendar

of the supreme court and brought to a hearing in the same manner as state causes on such calendar. The state ~~shall be~~ is deemed a party aggrieved, within the meaning of this subsection, whenever a judgment is entered upon such a review confirming any order or award against it. At any time before the case is set down for hearing in the supreme court, the parties may have the record remanded by the court to the department in the same manner and for the same purposes as provided for remanding from the circuit court to the department under s. 102.24 (2).

SECTION 17. 102.28 (1) (title) of the statutes is created to read:

102.28 (1) (title) PREFERENCE.

SECTION 18. 102.28 (2) of the statutes is repealed and recreated to read:

102.28 (2) REQUIRED INSURANCE; EXCEPTIONS. (a) *Duty to insure payment for compensation.* Unless exempted by the department, every employer which is liable to pay compensation under this chapter shall insure payment for that compensation in an insurer authorized to do business in this state.

(b) *Exemption from duty to insure.* The department may grant a written order of exemption to an employer who shows its financial ability to pay the amount of compensation, agrees to report faithfully all compensable injuries and agrees to comply with this chapter and the rules of the department. The department may condition the granting of an exemption upon the employer's furnishing of satisfactory security to guarantee payment of all claims under compensation. The department may require that bonds or other personal guarantees be enforceable against sureties in the same manner as an award may be enforced. The department may from time to time require proof of financial ability of the employer to pay compensation. Any exemption shall be void if the application for it contains a financial statement which is false in any material respect.

(c) *Revocation of exemption.* Upon giving 10 days' notice in writing, the department may, after hearing, revoke the exemption for financial reasons or for the failure of the employer to discharge faithfully its obligations according to the agreement contained in the application for exemption. Upon revocation, the employer shall insure its liability immediately as provided in par. (a).

(d) *Effect of insuring with unauthorized insurer.* An employer who procures an exemption under par. (b) and thereafter enters into any agreement for excess insurance coverage with an insurer not authorized to do business in this state shall report that agreement to the department immediately. The placing of such coverage shall not by itself be grounds for revocation of the exemption.

SECTION 19. 102.28 (3) to (8) (titles) of the statutes are created to read:

102.28 (3) (title) PENALTY FOR NONCOMPLIANCE.

(4) (title) ENFORCEMENT.

(5) (title) EMPLOYER'S LIABILITY.

(6) (title) REPORTS BY EMPLOYER.

(7) (title) INSOLVENT EMPLOYERS; ASSESSMENTS.

(8) (title) SELF-INSURED EMPLOYERS LIABILITY FUND.

SECTION 20. 102.29 (4) and (5) of the statutes are repealed and recreated to read:

102.29 (4) If the employer and the 3rd party are insured by the same insurer, or by the insurers who are under common control, the employer's insurer shall promptly notify the parties in interest and the department. If the employer has assumed the liability of the 3rd party, it shall give similar notice, in default of which any settlement with an injured employe or beneficiary is void. This subsection does not prevent the employer or compensation insurer from sharing in the proceeds of any 3rd party claim or action, as set forth in sub. (1).

(5) An insurer subject to sub. (4) which fails to comply with the notice provision of that subsection and which fails to commence a 3rd party action, within the 3 years allowed by s. 893.205, may not plead that s. 893.205 is a bar in any action commenced by the injured employe under this section against any such 3rd party subsequent to 3 years from the date of injury, but prior to 6 years from such date of injury. Any recovery in such an action is limited to the insured liability of the 3rd party. In any such action commenced by the injured employe subsequent to the 3-year period, the insurer of the employer shall forfeit all right to participate in such action as a complainant and to recover any payments made under this chapter.

SECTION 21. 102.31 (1) (a) of the statutes is amended to read:

102.31 (1) (a) Every contract for the insurance of the compensation provided for by this chapter, or against liability therefor, shall be deemed to be made subject to this chapter, and provisions thereof inconsistent with this chapter are void. Such contract shall be construed to grant full coverage of all liability of the assured under this chapter except for liability under s. 102.35 (3) which is the sole liability of the employer, notwithstanding any agreement of the parties to the contrary unless the department has theretofore by written order specifically consented to the issuance of a policy on a part of such liability, except that an intermediate agency or publisher referred to in s. 102.07 (6) may, under its own policy, cover liability of employes as defined in s. 102.07 (6) for an intermediate or independent news agency, provided the policy of insurance of the publisher or intermediate agency is endorsed to cover such persons. If the publisher so covers it is not necessary for the intermediate or independent news agency to cover liability for such persons. No policy may be canceled by either party within the policy period nor terminated upon the expiration date until a notice in writing is given to the other party, fixing the date on which it is proposed to cancel it, or declaring that the party does not intend to renew the policy upon expiration. Such cancellation or termination ~~shall~~ is not become effective until 30 days after written notice has been given to the department either by personal service of such notice upon the department at its office in Madison or by sending the notice by certified mail addressed to the department at its office in Madison. However, such cancellation or termination ~~shall become~~ is effective whether or not such notice has been given to the department upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance ~~as provided in~~ under s. 102.28 (2).

SECTION 22. 102.32 (6) of the statutes is amended to read:

102.32 (6) Any time after 6 months from the date of the injury, the department may ~~order~~ direct payment in gross or in such manner as it may determine to the best interest of the injured employe or his or her dependents. ~~When In directing such payment in gross is ordered, the department shall fix the gross amount to be paid based on the present worth of partial payments, considering interest at 3% per annum give the employer or the employer's insurer an interest credit against its liability. The credit shall be computed by adding the number of weeks over which the unadvanced compensation will be payable to one-half of the number of weeks over which the advanced sum would have been payable and multiplying this total by 0.135% of the sum advanced.~~

SECTION 23. 102.35 (3) of the statutes is amended to read:

102.35 (3) Any employer who without reasonable cause refuses to rehire an employe who is injured in the course of employment, where suitable employment is available within the employe's physical and mental limitations, ~~shall~~, upon order of the department and in addition to other benefits, has exclusive liability to pay to the employe the wages lost during the period of such refusal, not exceeding one year's wages. In determining the availability of suitable employment the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.

SECTION 24. 102.42 (2) and (3) of the statutes are repealed and recreated to read:

102.42 (2) CHOICE OF PRACTITIONER. (a) Where the employer has notice of an injury and its relationship to the employment the employer shall offer to the injured employe his or her choice of any physician, chiropractor or podiatrist licensed to practice and practicing in this state for treatment of the injury. By mutual agreement, the employe may have the choice of any qualified practitioner not licensed in this state. In case of emergency, the employer may arrange for treatment without tendering a choice. After the emergency has passed the employe shall be given his or her choice of attending practitioner at the earliest opportunity. The employe has the right to a 2nd choice of attending practitioner on notice to the employer or its insurance carrier. Any further choice shall be by mutual agreement. Partners and clinics are deemed to be one practitioner. Treatment by a practitioner on referral from another practitioner is deemed to be treatment by one practitioner.

(b) The employer is not liable for the expense of unreasonable travel to obtain treatment.

(3) PRACTITIONER CHOICE UNRESTRICTED. If the employer fails to tender treatment as provided in sub. (1) or choice of an attending practitioner as provided in sub. (2), the employe's right to choose the attending practitioner is not restricted and the employer is liable for the reasonable and necessary expense thereof.

SECTION 25. 102.42 (4) of the statutes is repealed.

SECTION 26. 102.42 (5) to (7) of the statutes are renumbered 102.42 (4) to (6), respectively.

SECTION 27. 102.42 (8) of the statutes is renumbered 102.42 (7) and amended to read:

102.42 (7) MEDICAL EXPENSES OF STATE EMPLOYEE. In the event of a claim by a state employe under the conditions enumerated in s. 102.03, involving only payment of medical, chiropractic or podiatric expense of not to exceed a gross of \$500, plus compensation for not to exceed 3 8 weeks of temporary disability, the employing department may approve payment of such reasonable expense for necessary treatment to whomsoever owing and compensation for not to exceed 3 8 weeks of temporary disability, subject to subsequent review by the department of industry, labor and human relations. If the employing department rejects the claim, the employe may make claim to the department of industry, labor and human relations. Payment shall be charged to the appropriate fund, as provided by s. 20.865 (1) (d).

SECTION 28. 102.42 (9) and (10) of the statutes are renumbered 102.42 (8) and (9), respectively.

SECTION 29. 102.43 (7) and (8) of the statutes are created to read:

102.43 (7) In cases where it is determined that periodic benefits granted by the federal social security act are payable because of the injury, the weekly benefits payable under this section may be reduced to the point that there will be no reduction in the benefits payable under the social security act upon submission to the department of satisfactory proof of the amount of social security benefits payable and the amount that such benefits would be reduced by continued payment of full compensation benefits.

(8) If an employe has a renewed period of temporary total disability commencing more than 2 years after the date of injury, payment of compensation for the new period of disability shall be made as follows:

(a) If the employe was entitled to maximum weekly benefits at the time of injury, payment for the renewed temporary total disability shall be at the maximum rate in effect at the commencement of the new period.

(b) If the employe was entitled to less than the maximum rate, the employe shall receive the same proportion of the maximum which is in effect at the time of the

commencement of the renewed period as the employe's actual rate at time of injury bore to the maximum rate in effect at that time.

SECTION 30. 102.44 (1) (intro.), (a) and (b) and (2) of the statutes are amended to read:

102.44 (1) (intro.) Notwithstanding any other provision of this chapter, every employe who is receiving ~~worker's~~ compensation under this chapter for a permanent total disability or temporary total disability more than 24 months after the date of injury resulting from an injury which occurred prior to ~~February 1, 1970~~ January 1, 1976, shall receive supplemental benefits which shall be payable in the first instance by the employer or the employer's insurance carrier. These supplemental benefits shall be paid only for weeks of disability occurring after January 1, ~~1972~~ 1978, and shall continue during the period of such total disability subsequent to that date.

(a) If such employe is receiving the maximum weekly benefits in effect at the time of the injury, the supplemental benefit shall be an amount which, when added to the regular benefit established for the case, shall equal the maximum weekly benefit in effect for a totally disabled employe whose injury occurred on ~~February 1, 1970~~ January 1, 1972.

(b) If such employe is receiving a weekly benefit which is less than the maximum benefit which was in effect on the date of the injury, the supplemental benefit shall be an amount sufficient to bring the total weekly benefits to the same proportion of the maximum weekly benefit payable ~~February 1, 1970~~ on January 1, 1972, as the employe's weekly benefit bears to the maximum in effect on the date of injury.

(2) In case of permanent total disability aggregate indemnity shall be weekly indemnity for the period that ~~he~~ the employe may live. Total impairment for industrial use of both eyes, or the loss of both arms at or near the shoulder, or of both legs at or near the hip, or of one arm at the shoulder and one leg at the hip, ~~shall constitute~~ constitutes permanent total disability. This enumeration ~~shall is~~ not be exclusive, but in other cases the department shall find the facts. In cases where it is determined that periodic benefits granted by the federal social security act are payable because of the injury, the weekly benefits payable under this section may be reduced to the point that there will be no reduction in the benefits payable under the social security act upon submission to the department of satisfactory proof of the amount of social security benefits payable and the amount that such benefits would be reduced by continued payment of full compensation benefits.

SECTION 31. 102.47 (2) of the statutes is amended to read:

102.47 (2) Where the injury proximately causes permanent partial disability, the unaccrued compensation shall first be applied toward funeral expenses, not to exceed \$750 ~~\$1,000~~, any remaining sum to be paid to dependents, as provided in this section and ss. 102.46 and 102.48, and there shall be no liability for any other payments. All computations under this subsection shall take into consideration the present value of future payments.

SECTION 32. 102.49 (1) of the statutes is repealed and recreated to read:

102.49 (1) Where the beneficiary under s. 102.46 or 102.47 (1) is the wife or husband of the deceased employe and is wholly dependent for support, an additional death benefit shall be paid from the funds provided by sub. (5) for each child by their marriage who is living at the time of the death of the employe, and who is likewise wholly dependent upon the employe for support. Such payment shall commence at the time that primary death benefit payments are completed, or if advancement of compensation has been paid at the time when payments would normally have been completed. Payments shall continue at the rate of 10% of the surviving parent's weekly indemnity until the child's 18th birthday. If the child is physically or mentally incapacitated, such payments may be continued beyond the 18th birthday but the payments may not continue for more than a total of 15 years.

SECTION 33. 102.49 (5) (b) of the statutes is amended to read:

102.49 (5) (b) In each case of injury resulting in death leaving no person dependent for support, the employer or insurer shall pay into the state treasury 80% of the death benefit otherwise payable in 5 equal annual instalments with the first instalment due as of the date of death.

SECTION 34. 102.49 (5) (e) of the statutes is created to read:

102.49 (5) (e) The adjustments in compensation provided in ss. 102.57, 102.58 and 102.60 do not apply to payments made under this section.

SECTION 35. 102.49 (6) of the statutes is amended to read:

102.49 (6) ~~The additional benefits for account of each child shall accrue at the rate of 13% of the surviving parent's weekly indemnity.~~ The department may award such the additional benefits payable under this section to the surviving parent of such the child, to the child's guardian or to such other person, bank or trust company for the child's use as may be found best calculated to conserve the interest of the child. In the case of death of a child while benefits are still payable there shall be paid the reasonable expense for burial, not exceeding \$300.

SECTION 36. 102.50 of the statutes is amended to read:

102.50 Burial expenses. In all cases where death of an employe proximately results from the injury the employer or insurer shall pay the reasonable expense for burial, not exceeding ~~\$750~~ \$1,000.

SECTION 37. 102.51 (1) and (4) of the statutes are amended to read:

102.51 (1) WHO ARE. (a) ~~The following shall be conclusively presumed to be persons are entitled to death benefits as if they are~~ solely and wholly dependent for support upon a deceased employe: A wife upon a husband with whom she is living at the time of his death; a husband upon a wife with whom he is living at the time of her death; a child under the age of 18 years (or over ~~said that~~ that age, but physically or mentally incapacitated from earning), upon the parent with whom he or she is living at the time of the death of such parent, there being no surviving dependent parent.

(b) Where a dependent who is entitled to the presumption in death benefits under this subsection survives the deceased employe, all other dependents shall be excluded. The charging of any portion of the support and maintenance of a child upon one of the parents, or any voluntary contribution toward the support of a child by a parent, or an obligation to support a child by a parent shall constitute a constitutes living with any such parent within the meaning of this section subsection.

(4) **DEPENDENCY AS OF DATE OF INJURY.** Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the injury to the employe, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions; and the death benefit shall be directly recoverable by and payable to the dependents entitled thereto or their legal guardians or trustees; in case of the death of a dependent whose right to a death benefit has thus become fixed, so much of the ~~same~~ benefit as is then unpaid shall be payable to ~~his~~ the dependent's personal representatives in gross. A posthumous child conceived prior to the date of injury is for the purpose of this subsection a dependent as of the date of injury.

SECTION 38. 102.555 (3) of the statutes is amended to read:

102.555 (3) An employe who because of occupational deafness is transferred by his or her employer to other noisy employment and thereby sustains actual wage loss shall be compensated at the rate provided in s. 102.43 (2), not exceeding ~~\$3,500~~ \$7,000 in the aggregate from all employers. "Time of injury," "occurrence of injury," and "date of injury" in such case ~~shall be~~ mean the date of wage loss.

SECTION 39. 102.56 of the statutes is amended to read:

102.56 Disfigurement. If an employe is so permanently disfigured as to occasion potential wage loss ~~of wage~~, the department may allow such sum ~~for compensation on account thereof~~, as it deems just as compensation therefor, not exceeding ~~his the~~

employee's average annual earnings as defined in s. 102.11. In determining the potential for wage loss and the sum awarded, the department shall take into account the age, education, training and previous experience and earnings of the employe, the employe's present occupation and earnings and likelihood of future suitable occupational change. Consideration for disfigurement allowance is confined to those areas of the body that are exposed in the normal course of employment. The department shall also take into account the appearance of the disfigurement, its location, and the likelihood of its exposure in occupations for which the employe is suited.

SECTION 40. 102.565 (1) of the statutes is amended to read:

102.565 (1) When an employe working subject to this chapter is, because he ~~or she~~ has a nondisabling silicosis, discharged from the employment in which he ~~or she~~ is engaged, or when an employe ceases such employment and it is in fact inadvisable for ~~him~~ the employe on account of a nondisabling silicosis to continue in it, and suffers wage loss by reason of such discharge, or such cessation, the department may allow such ~~compensation on account thereof~~ sum as it deems just as compensation therefor, not exceeding ~~\$7,000~~ \$13,000. In case of such discharge prior to a finding by the department that it is inadvisable for ~~him~~ the employe to continue in such employment, the liability of the employer who so discharges ~~his~~ the employe ~~shall be~~ is primary, and the liability of the employer's insurer ~~shall be~~ is secondary, under the same procedure and to the same effect as provided by s. 102.62.

SECTION 41. 102.59 (2) of the statutes is amended to read:

102.59 (2) In the case of the loss or of the total impairment of a hand, arm, foot, leg or eye, the employer shall ~~be required to~~ pay ~~\$2,500~~ \$4,000 into the state treasury. The payment shall be made in all such cases regardless of whether the employe, the employe's dependent or personal ~~representatives, commence~~ representative commences action against a ~~third~~ 3rd party as provided in s. 102.29.

SECTION 42. 102.60 (3) and (9) of the statutes are amended to read:

102.60 (3) Treble the amount otherwise recoverable if the injured employe is a minor of permit age, ~~or over~~, and at the time of the injury is employed, required, suffered, or permitted to work at prohibited employment.

(9) The increased compensation or increased death benefits recoverable under sub. (1) ~~shall~~ may not exceed ~~\$5,000~~ \$7,500. The increased compensation or increased death benefits recoverable under subs. (2), (3) or (4) ~~shall~~ may not exceed ~~\$7,500~~ \$15,000.

SECTION 43. 102.64 (1) of the statutes is amended to read:

102.64 (1) A representative of the department of justice designated by the attorney general shall represent the state in all cases involving payment into or out of the state treasury under s. 20.865 (1) (d), 102.49, 102.59 or 102.66. The department of justice ~~as directed by the attorney general~~ may compromise the amount of such payments but such compromises shall be subject to review by the department of industry, labor and human relations. If the spouse of the deceased employe compromises his or her claim for a primary death benefit, the claim of the children of such employe under s. 102.49 shall be compromised on the same pro rata basis subject to approval by the department. If the persons entitled to compensation on the basis of total dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49 (5) (a) shall be compromised on the same pro rata basis.

SECTION 44. 102.75 (2) of the statutes is amended to read:

102.75 (2) The department shall require that payments for costs and expenses of the fiscal year beginning July 1, 1975, and for each fiscal year thereafter, shall be made on such dates as the department prescribes, by each licensed worker's compensation insurance carrier and employer exempted under s. 102.28 (2). Each such payment shall be a sum equal to a proportionate share of the annual costs and expenses assessed upon each carrier and employer as estimated by the department.

The balance of assessments on hand at the end of each fiscal year shall be credited and applied toward the costs and expenses incurred under this section during the subsequent fiscal year. Carriers and employers whose estimated annual assessment for the fiscal year is less than ~~\$100~~ \$2,500 shall make a single payment of the estimated annual assessment on or before December 31 of the fiscal year in lieu of the proportion payments.

SECTION 45. Cross reference changes. In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
102.42 (1)	102.42 (5)	102.42 (4)

SECTION 46. Effective date. This act shall take effect on January 1, 1978, or on the day after publication, whichever is later.

Nov. 1977 Spec. Sess.
Senate Bill 2

Date published:

CHAPTER , Laws of 1977*

AN ACT to repeal 15.05 (2), 15.105 (3) (a), 16.002 (3), subchapter II (title) of chapter 16, 16.01, 16.02 (3), (5) and (6), 16.03 (1) and (4), 16.05 (1) (e) to (h), (2) and (7), 16.07 (1) (a), 16.10, 16.12 (6) and (7), 16.18 (1) (b), 16.185 (title), 16.22 (2), 16.31 (4), 16.37 (title), 20.505 (7) and 20.923 (4) (a) 3 and 5, (b) 5m, (c) 1 and 2, (d) 2 and 8m, (e) 3, (f) 3 and (4c); to renumber 15.04, 15.101 (3), 15.105 (3) (title), (intro.) and (b) to (f) and (6), 16.004 (7), 16.02 (intro.), (1), (2), (4) and (7) to (9), 16.03 (title), (2), (3), (5) and (6), 16.04 (title), (1) and (2), 16.05 (exc. 16.05 (1) (e) to (h)), (2) and (7), 16.07 (1) (exc. 16.07 (1) (a)) and (2) (intro.) to (f), 16.08, 16.084, 16.086, 16.095, 16.11, 16.12 (1) (intro.) to (b), (2) to (5) and (8) to (11), 16.13, 16.16, 16.17, 16.18 (intro.), (1) (exc. 16.18 (1) (b)) and (2), 16.185 (exc. 16.185 (title)), 16.19, 16.20, 16.22 (exc. 16.22 (2)), 16.23, 16.24, 16.25 to 16.30, 16.31 (exc. 16.31 (4)), 16.32, 16.33 (title) and (1) to (9), 16.34 to 16.36, 16.37 (1) to (4) and 16.38; to renumber and amend 16.06, 16.14, 16.15, 16.21 and 111.33; to amend 15.05 (2) and (3), 15.099, 15.77 (title), (1) and (2) (b), as renumbered, 15.771, as renumbered, 16.003 (2), 16.004 (1) and (7), 16.50 (3), 16.53 (1) (ca), 20.865 (1) (c) (intro.) and (ci), 20.923 (4) (intro.) and (9), 40.16 (2), 49.50 (3), 62.13 (4) (d), 63.05 (2), 63.32, 63.37, 66.19 (1), 111.32 (3), 111.35 (intro.), 111.36 (title), 111.80 (4), 111.81 (7) and (15), 111.91 (3), 230.03 (4), as renumbered, 230.047 (8), as renumbered, 230.05 (2) (a), (4) and (5), as renumbered, 230.06 (title), (1) (intro.) and (b) to (e) and (3), as renumbered, 230.08 (2) (e) and (3) (d), as renumbered, 230.09 (1) (intro.) and (2) (am) to (f), as renumbered, 230.12 (3) (a), (b) and (e), (5) (b) and (7), as renumbered, 230.13 (intro.), as renumbered, 230.15 (2), as renumbered, 230.16 (3) to (5) and (8), as renumbered, 230.17 (2), as renumbered, 230.22 (2), as renumbered, 230.25 (1), as renumbered, 230.28 (1) (a), as renumbered, 230.35 (1) (b) and (5), as renumbered, 230.37 (1), as renumbered and 230.43 (4), as renumbered; to repeal and recreate 15.05 (5), 15.06 (2), 20.923 (4) (g) 1, (5) and (15) and 111.81 (16); and to create 15.04 (2) and (3), 15.06 (1) (d), (4m) and (9), 15.17 and 15.171, 15.173, 15.177, 15.77 (2) (intro.) and (3), 15.771 (title), 15.80, 15.801, 16.415 (title), 16.505, 20.002 (12), 20.512, 20.546, 20.547, 20.923 (4) (c) 4m and (d) 4m, 20.926 (1) (am), 63.05 (6), 66.19 (5), 111.33 (2), 111.36 (intro.), 111.815, 111.915, TITLE XIX-A (title), chapter 230 (title), subchapter I (title) of chapter 230, 230.01, 230.02, 230.03 (1) to (3), (4m), (8) to (10) and (11m),

* At press time, Senate Bill 2 of the November 1977 Special Session was still awaiting approval by the Governor. See Volume II for further information.

230.04, 230.045, 230.046 (2) and (4), subchapter II (title) of chapter 230, 230.05 (1), (2) (b), (6) and (7), 230.06 (2), 230.07 (7), 230.08 (2) (L) and (m) and (4), 230.09 (2) (g) and (3), 230.14, 230.145, 230.16 (6) and (7), 230.19 (1), 230.215, 230.22 (3), 230.24 (2), 230.25 (1m), 230.27, 230.28 (1) (am) and (2), 230.335, 230.35 (2r), 230.36 (4), 230.44, 230.45 and 230.46 of the statutes, relating to eliminating the personnel functions of the department of administration, altering the functions of the personnel board, creating a department of employment relations, a division of personnel, an affirmative action council and a personnel commission, making diverse changes in the statutes relating to state personnel procedures, changing the award of veterans preference points in state and local civil service examination, granting rule-making authority and transferring and making appropriations.

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

SECTION 1. 15.04 of the statutes is renumbered 15.04 (1).

SECTION 2. 15.04 (2) and (3) of the statutes are created to read:

15.04 (2) DEPUTY. Each secretary of a department or head of an independent agency under s. 230.08 (2) (L) may appoint a deputy who shall serve at the pleasure of the secretary, or head outside the classified service. The deputy shall exercise the powers, duties and functions of the secretary or head in the absence of the secretary or head, and shall perform such other duties as the secretary or head prescribes. In this subsection "secretary" includes the attorney general and the state superintendent of public instruction.

(3) DEPUTY APPROVALS. Positions for which appointment is made under sub. (2) may be authorized only under s. 16.505.

SECTION 3. 15.05 (2) of the statutes is repealed.

SECTION 4. 15.05 (3) of the statutes is amended to read:

15.05 (3) EXECUTIVE ASSISTANT. Each secretary may appoint, ~~outside the classified service,~~ an executive assistant to serve at his or her pleasure outside the classified service. ~~At the discretion of the secretary, the~~ The executive assistant ~~shall serve as the deputy under sub. (2) or shall perform such other duties as the secretary prescribes.~~ This ~~In this~~ subsection ~~also applies to~~ "secretary" includes the attorney general and ~~to~~ the state superintendent of public instruction.

SECTION 4m. 15.05 (5) of the statutes is repealed and recreated to read:

15.05 (5) EXECUTIVE ASSISTANT APPROVALS. Positions for which appointment is made under sub. (3) may be authorized only under s. 16.505.

SECTION 5. 15.06 (1) (d), (4m) and (9) of the statutes are created to read:

15.06 (1) (d) The members of the personnel commission shall be nominated by the governor outside the classified service from a list of at least 5 names per position submitted by the personnel board, and with the advice and consent of the senate appointed, for staggered 5-year terms, subject to the following conditions:

1. At least one member shall be licensed to practice law in this state.
2. They shall possess some professional experience in the field of personnel or labor relations.
3. No member may hold any other position in state employment.
4. No member, when appointed or for 3 years immediately prior to the date of appointment, may have been an officer of a committee in any political party, partisan political club or partisan political organization or have held or been a candidate for any partisan elective public office. No member may become a candidate for or hold any such office.
5. At no time may more than 2 members be adherents of the same political party.

6. Each member of the commission shall be a U.S. citizen and shall have been a resident of this state for at least 3 years.

(4m) EXECUTIVE ASSISTANT. Each commission chairperson under s. 230.08 (2) (m) may appoint an executive assistant to serve at his or her pleasure outside the classified service. The executive assistant shall perform duties as the chairperson prescribes.

(9) EXECUTIVE ASSISTANT APPROVALS. Positions for which appointment is made under sub. (4m) may be authorized only under s. 16.505.

SECTION 6. 15.06 (2) of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

15.06 (2) SELECTION OF OFFICERS. Each commission may annually elect officers other than a chairperson from among its members as its work requires. Any officer may be reappointed or reelected. At the time of making new nominations to commissions, the governor shall designate a member or nominee of each commission to serve as the commission's chairperson for a 2-year term expiring on March 1 of the odd-numbered year except that:

(a) Commencing March 1, 1979, and thereafter, the labor and industry review commission shall elect one of its members to serve as the commission's chairperson for a 2-year term expiring on March 1 of the odd-numbered year.

(b) Commencing March 1, 1979, and thereafter, the personnel board shall elect a member of or nominee to the personnel commission to serve as the commission's chairperson for a 2-year term expiring on March 1 of the odd-numbered year.

SECTION 7. 15.099 of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

15.099 Program responsibilities; effect of omissions. Sections 14.011, 14.311, 14.361, 14.561, 15.101, 15.131, 15.151, 15.161, 15.171, 15.191, 15.221, 15.251, 15.281, 15.311, 15.341, 15.371, 15.401, 15.431, 15.461, 15.491, 15.551, 15.571, 15.581, 15.591, 15.611, 15.621, 15.671, 15.701, 15.731, 15.761, 15.771, 15.781, 15.791, 15.801, 15.821, 15.851, 15.911 and 15.941 are intended to set forth the program responsibilities of the several units of the executive branch. No statutory power, duty or function specified elsewhere for a unit may be deemed impliedly repealed for the sole reason that reference to it has been omitted in these sections.

SECTION 8. 15.101 (3) of the statutes is renumbered 15.771 and amended to read:

15.771 (title) Same; program responsibilities. The personnel board shall have the program responsibilities specified for the board under subch. II of ch. ~~46~~ 230 and ss. 15.06 (1) (d) and 15.173 (1) (b).

SECTION 9. 15.105 (3) (title), (intro.) and (b) to (f) of the statutes are renumbered 15.77 (title), (1) and (2) (b) to (f), respectively, and 15.77 (title), (1) and (2) (b), as renumbered, are amended to read:

15.77 (title) Personnel board; creation. (1) ~~There is created a personnel board which is attached to the department of administration under s. 15.03. The personnel board shall consist of 5 members, appointed for staggered 5-year terms, subject to the following conditions: consisting of persons who shall be nominated by the governor, and with the advice and consent of the senate appointed, for staggered 5-year terms as follows: one member shall be nominated by the governor; and one member each shall be nominated by the governor from each list of 5 names submitted individually by the president pro tempore of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly. All of the persons on every list shall possess all of the qualifications under sub. (2) except that no more than 3 of the persons on every list need possess the qualification specified under sub. (2) (b).~~

(2) (b) At least 3 members shall have at least ~~5~~ 3 years' experience in professional work in personnel or labor relations, ~~and at least one member shall be an attorney.~~

SECTION 10. 15.105 (3) (a) of the statutes is repealed.

SECTION 11. 15.17 and 15.171 of the statutes are created to read:

15.17 Department of employment relations; creation. There is created a department of employment relations under the direction and supervision of the secretary of employment relations.

15.171 Same; program responsibilities. The department of employment relations shall have the program responsibilities specified for the department under ch. 230 and subch. V of ch. 111. In addition:

(1) **DIVISION OF PERSONNEL.** The division of personnel shall have the program responsibilities specified for the division under s. 49.50 and ch. 230.

SECTION 12. 15.173 of the statutes is created to read:

15.173 Same; specified divisions. (1) **PERSONNEL DIVISION.** (a) There is created in the department of employment relations a division of personnel.

(b) The administrator of the division of personnel in the department of employment relations shall be nominated by the governor, and with the advice and consent of the senate appointed for a 5-year term, under the unclassified service from a register certified by the personnel board. The personnel board shall prepare and conduct an examination for the position of administrator according to the requirements for classified positions under subch. II of ch. 230.

(c) The administrator of the division of personnel in the department of employment relations may be nominated by the governor, and with the advice and consent of the senate reappointed. The personnel board shall evaluate annually the performance of the administrator. At the conclusion of the administrator's term the board, on the basis of the annual evaluations, may advise the governor in writing as to the reappointment of the administrator.

SECTION 14. 15.177 of the statutes is created to read:

15.177 Same; councils. (1) **COUNCIL ON AFFIRMATIVE ACTION.** There is created in the department of employment relations a council on affirmative action consisting of 15 members appointed for 5-year terms. A majority of the members shall be public members and a majority of the members shall be minority persons, women and persons with a handicap appointed with consideration to the appropriate representation of each group.

SECTION 15. 15.77 (2) (intro.) and (3) of the statutes are created to read:

15.77 (2) (intro.) The members of the personnel board shall be appointed and serve subject to the following conditions:

(a) All members shall have an interest in the state civil service system.

(3) Notwithstanding s. 17.20, if a member resigns, the officer who submitted the member's name to the governor under sub. (1) shall submit 5 names to the governor. The new member shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve for the remainder of the unexpired term of the member who resigned.

SECTION 16. 15.771 (title) of the statutes is created to read:

15.771 (title) Same; program responsibilities.

SECTION 17. 15.80 of the statutes is created to read:

15.80 Personnel commission; creation. There is created a personnel commission. The commission shall be appointed under s. 15.06 (1) (d).

SECTION 18. 15.801 of the statutes is created to read:

15.801 Same; program responsibilities. The personnel commission shall have the program responsibilities specified for the commission under subch. II of ch. 230 and ss. 49.50, 111.33 (2) and 111.91 (3).

SECTION 19. 16.002 (3) of the statutes is repealed.

SECTION 20. 16.003 (2) of the statutes is amended to read:

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

SECTION 21. 16.004 (1) and (7) of the statutes are amended to read:

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

(7) (title) PERSONNEL MANAGEMENT INFORMATION SYSTEM. The secretary shall establish and maintain a management information system which shall be used to furnish the governor and the legislature and the department of employment relations with current information pertaining to authorized positions, payroll and related items covering civil service employees.

SECTION 22. Subchapter II (title) of chapter 16 of the statutes is repealed.

SECTION 23. 16.01 of the statutes is repealed.

SECTION 24. 16.02 (intro.), (1), (2), (4) and (7) to (9) of the statutes are renumbered 230.03 (intro.), (4), (6), (5), (12), (7) and (11), and 230.03 (4), as renumbered, is amended to read:

230.03 (4) "Appointing authority" means ~~any officer, commission, board or body having the power of appointment to or removal from subordinate positions in any department, state agency or institution~~ the chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes.

SECTION 25. 16.02 (3), (5) and (6) of the statutes are repealed.

SECTION 25m. 16.03 (1) and (4) of the statutes are repealed.

SECTION 26. 16.03 (title), (2), (3), (5) and (6) of the statutes are renumbered 230.05 (title), (2) (a) and (3) to (5), respectively, and 230.05 (2) (a), (4) and (5), as renumbered, are amended to read:

230.05 (2) (a) ~~The director~~ Except as provided under par. (b), the administrator may delegate, in writing, any of his ~~ministerial or her~~ functions set forth in this subchapter to a ~~department head~~ an appointing authority, within prescribed standards ~~when he if the administrator finds such that the agency has personnel management capabilities to perform such functions effectively and has indicated its approval and willingness to accept such responsibility by written agreement. Whenever the director~~ If the administrator determines that any department agency is not performing such delegated function within prescribed standards, he the administrator shall forthwith withdraw such delegation and assume responsibility for such delegated function. The administrator may order transfer to the division from the agency to which delegation was made such agency staff and other resources as necessary to perform such functions if increased staff was authorized to that agency as a consequence of such delegation or if the division reduced staff or shifted staff to new responsibilities as a result of such delegation subject to the approval of the joint committee on finance under s. 13.101. Any delegatory action taken ~~hereunder~~ under this subsection by any ~~department head~~ appointing authority may be appealed to the personnel board commission under s. ~~16.05~~ 230.44 (1) (b). The administrator shall be a party in such appeal.

(4) ~~The director~~ administrator may issue enforceable orders on all matters relating to the administration, enforcement and effect of the provisions of this subchapter ~~the responsibility for which is specifically charged to the administrator~~ and the rules prescribed thereunder. Any action brought against the appointing authority for failure

to comply with the order of the ~~director~~ administrator shall be brought and served within 60 days after the date on which the ~~director's~~ administrator's order was issued. Such orders may be appealed to the ~~board~~ commission under s. 230.44 (1) (a).

(5) The ~~director~~ administrator shall promulgate rules for the effective operation of the provisions of this subchapter, the responsibility for which is specifically charged to the administrator. Such rules, except for emergency rules, shall be subject to approval by the board. Notice of the contents of such rules and any modifications thereof shall be given to appointing authorities affected thereby, and such rules and modifications shall also be printed for public distribution.

SECTION 28. 16.04 (title), (1) and (2) of the statutes are renumbered 230.06 (title), (1) and (3), and 230.06 (title), (1) (intro.) and (b) to (e) and (3), as renumbered, are amended to read:

230.06 (title) Powers and duties of appointing authorities. (1) (intro.) Each An appointing authority shall:

(b) Appoint persons to or remove persons from the classified service, discipline employees, designate their titles, assign their duties and fix their compensation, all subject to this subchapter and the rules ~~of the director~~ prescribed thereunder.

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

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

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

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

SECTION 29. 16.05 (exc. 16.05 (1) (e) to (h), (2) and (7)) of the statutes is renumbered 230.07.

SECTION 30. 16.05 (1) (e) to (h), (2) and (7) of the statutes are repealed.

SECTION 31. 16.06 of the statutes is renumbered 16.705 and amended to read:

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

SECTION 32. 16.07 (1) (exc. 16.07 (1) (a)) and (2) (intro.) to (f) of the statutes are renumbered 230.09 (1) and (2) (a) and (am) to (f), respectively, and 230.09 (1) (intro.) and (2) (am) to (f), as renumbered, are amended to read:

230.09 (1) (intro.) The ~~director~~ administrator shall ascertain and record the duties, responsibilities and authorities of, and establish grade levels and classifications for, all positions in the classified service subject to the approval of the board. He or she shall use job evaluation methods which in his or her judgment are appropriate to the class or occupational groups. Each classification so established shall include all positions which are ~~substantially similar in comparable with~~ respect to authority, responsibility and nature of work required. Each classification shall be established to include as many positions as are reasonable and practicable. In addition, each class shall:

(2) (am) The ~~director~~ administrator shall maintain and improve the classification plan to meet the needs of the service, using methods and techniques which may include personnel management surveys, individual position reviews, occupational group classification surveys, or other appropriate methods of position review. Such reviews may be initiated by the ~~director~~ administrator after taking into consideration the recommendations of the appointing authority, or at his or her own discretion. The

~~director~~ administrator shall establish, modify or abolish classifications as the needs of the service require, and subject to the approval of the board.

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

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

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

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

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

SECTION 33. 16.07 (1) (a) of the statutes is repealed.

SECTION 34. 16.08 of the statutes is renumbered 230.08, and 230.08 (2) (e) and (3) (d), as renumbered, are amended to read:

230.08 (2) (e) ~~All~~ Division administrators under sub. (4) and all other officers and employes of the state whose positions are expressly excluded from the classified service by statute or whose positions cannot be placed under the classified service because of the restrictions placed on them by statute.

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

SECTION 35. 16.084 of the statutes, as affected by chapter 44, laws of 1977, is renumbered 230.10.

SECTION 36. 16.086 of the statutes, as affected by chapters 29 and 44, laws of 1977, is renumbered 230.12, and 230.12 (3) (a), (b) and (e), (5) (b) and (7), as renumbered, are amended to read:

230.12 (3) (a) Submission to the joint committee on employment relations. The ~~director~~ secretary shall submit to the ~~board~~ joint committee on employment relations a proposal for any required changes in the compensation plan which may include across the board pay adjustments for positions in the classified service. The proposal shall include the amounts and methods for within range pay progression, for pay

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

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

(e) *University of Wisconsin system faculty and academic staff employes.* The secretary, after receiving recommendations from the board of regents, shall submit to the joint committee on employment relations a proposal for adjusting compensation and employe benefits for employes under ss. 16.08 (2) (d) and 20.923 ~~(5) and (6)~~ (m). The proposal for such pay adjustments may contain recommendations for across-the-board pay adjustments, merit or other adjustments and employe benefit improvements. Except for the requirement for advice and counsel from the personnel board and recommendations by the ~~director~~ secretary, par. (b) and sub. (1) (bf) shall apply to the process for approval of all pay adjustments for employes under ss. 16.08 (2) (d) and 20.923 ~~(5) and (6)~~ (m). The proposal as approved by the joint committee on employment relations and the governor shall be based upon a percentage of the budgeted salary base for employes under ss. 16.08 (2) (d) and 20.923 ~~(5) and (6)~~ (m) to be appropriated under s. 20.865 (1) (ci) and (d). The amount included in the proposal for merit and adjustments other than across-the-board pay adjustments shall be available for discretionary use by the board of regents.

(5) (b) *Date.* Any authorized pay adjustments under this section shall be awarded by each ~~department head~~ appointing authority for the ~~department~~ agency subject to par. (d) on the date or dates in the approved plan.

(7) EXCEPTIONAL PERFORMANCE AWARDS. Consistent with applicable provisions of sub. (5) it is the declared public policy that pay ~~rates of~~ awards to employes in the classified service shall be ~~increased~~ granted consistent with sound personnel practice to recognize exceptional performance. Such exceptional performance awards shall be noncumulative and awarded to employes in accordance with eligibility determinations of the ~~director~~ secretary consistent with the provisions of the approved compensation plan and the schedules contained therein. Funding for such exceptional performance awards shall be derived from any unspent moneys under sub. (5) and from the within range awards granted to an employe during the current fiscal year under sub. (5) who terminates with the ~~department~~ agency. Exceptional performance awards shall be made on a lump sum basis, within the limits approved for such awards and shall not be considered part of an employe's basic pay.

SECTION 37. 16.095 of the statutes is renumbered 230.13 and 230.13 (intro.), as renumbered, is amended to read:

230.13 Closed records. (intro.) The director secretary and the administrator may keep records of the following personnel matters closed to the public:

SECTION 38. 16.10 of the statutes is repealed.

SECTION 39. 16.11 of the statutes is renumbered 230.15, and 230.15 (2), as renumbered, is amended to read:

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

SECTION 40. 16.12 (1) (intro.) to (b), (2) to (5) and (8) to (11) of the statutes are renumbered 230.16 (1) (a), (am) and (b), (2) to (5) and (8) to (11), and 230.16 (3) to (5) and (8), as renumbered, are amended to read:

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

(4) All examinations, including minimum training and experience requirements, for positions in the classified service shall be ~~of such character as to determine the qualifications, fitness and ability of the persons examined~~ job-related in compliance with appropriate validation standards and shall be subject to the approval of the administrator. All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

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

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

SECTION 41. 16.12 (6) and (7) of the statutes are repealed.

SECTION 42. 16.13 of the statutes is renumbered 230.17, and 230.17 (2), as renumbered, is amended to read:

230.17 (2) ~~Whenever~~ If the ~~director administrator~~ refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, ~~then said director the administrator~~, if requested by the ~~person applicant~~ so rejected within 10 days of the date of receipt of ~~such the~~ notice of rejection, shall give ~~to him the~~

applicant a full and explicit statement of the exact cause of such refusal to examine or to certify, ~~as the case may be. Applicants may appeal to the commission the decision of the administrator to refuse to examine or certify under s. 230.44 (1) (a).~~ Upon request of an applicant or an eligible for a civil service position who ~~is blind~~ has a handicap, the department of health and social services shall obtain from the ~~director administrator~~ a detailed description of all duties entailed by such position and ~~investigate the necessity for eyesight in the fulfillment of the duties of any position, and~~ shall determine and report its findings to the ~~director administrator~~, as to the physical ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the ~~physical~~ qualifications of any applicant, or eligible, so examined.

SECTION 43. 16.14 of the statutes is renumbered 230.18 and amended to read:

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

SECTION 44. 16.15 of the statutes is renumbered 230.19 (2) and amended to read:

230.19 (2) ~~When If~~, in the judgment of the ~~director administrator~~, the group of applicants best able to meet the requirements for vacancies in positions in the classified service are available within the classified service, such the vacancies shall be filled by competition limited to persons in the classified service who are not employed under s. ~~16.24 230.26 or 230.27 unless it is necessary to go outside the classified service to create a balanced work force as defined in s. 230.03 (4m) in a classified civil service classification within an agency.~~

SECTION 45. 16.16 and 16.17 of the statutes are renumbered 230.20 and 230.21, respectively.

SECTION 46. 16.18 (intro.), (1) (exc. 16.18 (1) (b)) and (2) of the statutes are renumbered 230.22 (1), (2) and (4), respectively, and 230.22 (2), as renumbered, is amended to read:

230.22 (2) In connection with this program the ~~director administrator~~ may: ~~(a) Establish~~ establish separate classifications and corresponding pay provisions to provide state departments an entry professional program, through which they can compete on campuses and in the labor market for the best available applicants.

SECTION 47. 16.18 (1) (b) of the statutes is repealed.

SECTION 47m. 16.185 (title) of the statutes is repealed.

SECTION 48. 16.185 (exc. 16.185 (title)) of the statutes is renumbered 230.04 (11).

SECTION 49. 16.19 of the statutes is renumbered 230.24 (1).

SECTION 50. 16.20 of the statutes is renumbered 230.25, and 230.25 (1), as renumbered, is amended to read:

230.25 (1) Appointing authorities shall give written notice to the ~~director administrator~~ of any vacancy to be filled in any position in the classified service; ~~and the director. The administrator shall certify, pursuant to under~~ this subchapter and the rules of the ~~director administrator~~, from the register of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, the ~~3 5~~ names at the head thereof, ~~which have not been certified 3 times if the register~~

of eligibles is less than 50. If the register is more than 50, the top 10%, with any fraction rounded to the next whole number, up to a maximum of 10 names, shall be certified. Up to 2 persons considered for appointment 3 times and not selected may be removed from the register for each 3 appointments made. Certification under this subsection shall be made before granting any preference under s. 230.16 (7).

SECTION 51. 16.21 of the statutes is renumbered 230.26 and amended to read:

230.26 Limited term appointments. (1) The ~~director~~ administrator may provide by rule for selection and appointment for limited term appointments which shall ~~include but not be limited to part-time (which is less than half-time on a daily, weekly or monthly basis), short-term, project and student appointments and appointments for less than 600 hours per year.~~ Provisional and emergency appointments shall be deemed short-term appointments and shall be subject to subs. (2) and (3).

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

(3) An appointment may be made by an appointing authority in an emergency without regard to the selection provisions of this subchapter, but in no case to continue longer than 20 work days, ~~and in no case shall successive.~~ Successive emergency appointments for the same position may not be made under this subsection.

(4) Fringe benefits specifically authorized by statutes, with the exception of worker's compensation, unemployment compensation, group insurance, retirement and social security coverage, shall be denied employees ~~covered in subs. (1) to (3).~~ Employees in these positions are hired under this section. Such employees may not be considered career permanent employees and do not qualify for tenure, vacation, paid holidays, sick leave, merit increases performance awards or the right to compete in promotional examinations.

SECTION 52. 16.22 (exc. 16.22 (2)) of the statutes is renumbered 230.28, and 230.28 (1) (a), as renumbered, is amended to read:

230.28 (1) (a) All original and all promotional appointments to permanent, sessional and seasonal positions, with the exception of those positions designated as supervisor or management under s. 111.81, in the classified service shall be for a probationary period of 6 months, but the ~~director, in an original appointment,~~ administrator at the request of the appointing authority and in accordance with the rules related thereto may extend any such period for a maximum of 3 additional months. Dismissal may be made at any time during such periods. Upon such dismissal, the appointing authority shall ~~forthwith~~ report to the ~~director~~ administrator and to the employee removed, ~~his action the dismissal and the reason therefor.~~ his ~~the~~ the ~~employee's~~ the probationary period if ~~he the administrator~~ he finds, after giving notice and an opportunity to be heard, that such employee was appointed as a result of fraud or error.

SECTION 53. 16.22 (2) of the statutes is repealed.

SECTION 54. 16.23 of the statutes is renumbered 230.29.

SECTION 55. 16.24 of the statutes is renumbered 230.047, and 230.047 (8), as renumbered, is amended to read:

230.047 (8) ADMINISTRATION. The ~~director~~ secretary shall promulgate rules for the operation and implementation of this section. The rules shall prescribe the

duration, terms and conditions of such interchange. Any interchange agreements negotiated under this section shall be subject to approval of the administrator of the division of personnel.

SECTION 56. 16.25 to 16.30 of the statutes, as affected by chapter 44, laws of 1977, are renumbered 230.31 to 230.35, respectively, and 230.35 (1) (b) and (5), as renumbered, are amended to read:

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

(5) (a) ~~The~~ Except as provided under s. 230.215 (5), the standard basis of employment for the state service is 40 hours each 7 consecutive calendar day period, except that when the needs of an employing unit cannot be fulfilled by adhering to the standard basis of employment, additional hours of work may be required by the appointing authority. During a proclaimed national emergency, the governor may extend the work week and adjust the working hours to use the available manpower of any or all ~~departments agencies~~ as he ~~or she~~ deems essential.

(b) The standard basis of employment shall be divided into 5 work days of 8 hours each ~~except as provided under s. 230.215 (5), and~~ except that when the conditions of employment cannot be satisfied by adhering to this division or when the public would not be inconvenienced, deviations may be permitted upon recommendation of the appointing authority and subsequent approval by the ~~director~~ administrator.

SECTION 57. 16.31 (exc. 16.31 (4)) of the statutes, as affected by chapter 26, laws of 1977, is renumbered 230.36.

SECTION 58. 16.31 (4) of the statutes is repealed.

SECTION 59. 16.32 of the statutes is renumbered 230.37, and 230.37 (1), as renumbered, is amended to read:

230.37 (1) In cooperation with appointing authorities the ~~director~~ secretary shall establish a uniform employe ~~work planning and progress performance~~ evaluation program, ~~incorporating the principles of management by objectives~~, to provide a continuing record of employe development and, when applicable, to serve as a basis for decision-making on employe pay increases and decreases, potential for promotion, order of layoff and for other pertinent personnel actions. Similar evaluations shall be conducted during the probationary period but may not infringe upon the authority of the appointing authority to retain or dismiss employes during the probationary period.

SECTION 60. 16.33 (title) and (1) to (9) of the statutes are renumbered 230.046 (title), (1), (3) and (5) to (11), respectively.

SECTION 61. 16.34 to 16.36 of the statutes are renumbered 16.008, 230.40 and 230.41, respectively.

SECTION 62. 16.37 (title) of the statutes is repealed.

SECTION 63. 16.37 (1) to (4) of the statutes are renumbered 230.04 (12) and 16.415 (1) to (3), respectively.

SECTION 64. 16.38 of the statutes is renumbered 230.43, and 230.43 (4), as renumbered, is amended to read:

230.43 (4) RIGHTS OF EMPLOYE. ~~Any~~ If an employe ~~who~~ has been removed, demoted or reclassified, from or in any position or employment in contravention or violation of this subchapter, and ~~who~~ has been reinstated to such position or employment by order of the ~~board~~ commission or any court upon review, the employe shall be entitled to compensation therefor from the date of such unlawful removal, demotion or reclassification at the rate to which he ~~or she~~ would have been entitled by law but for such unlawful removal, demotion or reclassification, ~~and such.~~ Interim earnings or amounts earnable with reasonable diligence by the employe shall operate

to reduce back pay otherwise allowable. Amounts received by the employe as unemployment benefits or welfare payments shall not reduce the back pay otherwise allowable, but shall be withheld from the employe and immediately paid to the unemployment reserve fund or, in the case of a welfare payment, to the welfare agency making such payment. The employe shall be entitled to an order of mandamus to enforce the payment or other provisions of such order.

SECTION 65. 16.415 (title) of the statutes is created to read:

16.415 (title) Certification of payrolls.

SECTION 66. 16.50 (3) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

16.50 (3) LIMITATION ON INCREASE OF FORCE AND SALARIES. No department, except the legislature or the courts, may increase the pay of any employe, expend money or incur any obligation except in accordance with the estimate submitted to the secretary as provided in sub. (1) and which is approved by the secretary or the governor. No additional positions above the number authorized through the biennial budget, 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). The secretary may withhold, in total or in part, the funding for any position, as defined in s. 230.03 (11) as well as funds 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). 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). 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 along with the report required under s. 16.50 (4).

SECTION 67. 16.505 of the statutes is created to read:

16.505 Position authorization. No position, as defined in s. 230.03 (11), regardless of funding source or type, may be created unless authorized by the legislature by law or in budget determinations, or by the joint committee on financing acting under s. 13.101 or as otherwise provided by law, or by the governor acting under s. 16.54 or creating positions funded under s. 20.001 (2) (b). 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).

SECTION 67m. 16.53 (1) (ca) of the statutes is amended to read:

16.53 (1) (ca) *Supervision of expenditures.* All ~~departments~~ agencies shall diligently review and supervise the travel expenditures of their employes and may adopt reasonable rules governing such expenditures. Each claim shall be approved by the employe's ~~department head~~ appointing authority, as defined in s. 230.03 (4), or his 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).

SECTION 68. 20.002 (12) of the statutes is created to read:

20.002 (12) No funding may be expended by any state agency, except the legislature or courts, for permanent, project, part-time or limited term employment if the position for which funding is authorized has been temporarily withheld under s. 16.50 (3).

SECTION 69. At the appropriate place in the schedule in section 20.005 of the statutes, insert the following amounts for the purposes indicated:

		1977-78	1978-79
20.512 Employment relations,			
department of			
(1) ADMINISTRATIVE SERVICES			
(a) General program operations	GPR A	84,968	-0-
20.546 Personnel board			
(1) PERSONNEL REGULATION			
(a) General program operations	GPR A	-0-	-0-
20.547 Personnel commission			
(1) REVIEW OF PERSONNEL			
DECISIONS			
(a) General program operations	GPR A	113,884	-0-

SECTION 70. 20.505 (7) of the statutes is repealed.

SECTION 71. 20.512 of the statutes is created to read:

20.512 Employment relations, department of. There is appropriated to the department of employment relations for the following programs:

(1) ADMINISTRATIVE SERVICES. (a) *General program operations.* The amounts in the schedule for administration of the civil service system under ch. 230.

(j) *Gifts and donations.* All moneys received from gifts, grants, bequests and devises, to carry out the purposes for which made and received.

(k) *Program revenue - services.* All moneys received from state agencies for employe development and training services provided them by the department.

(m) *Federal grants and contracts.* All moneys received from the federal government to carry out the purposes for which made.

SECTION 72. 20.546 of the statutes is created to read:

20.546 Personnel board. There is appropriated to the personnel board for the following program:

(1) PERSONNEL REGULATION. (a) *General program operations.* The amounts in the schedule for the regulation of state personnel management under s. 230.07 and for the board's duties under ss. 15.06 (1) (d) and 15.173 (1) (b).

SECTION 73. 20.547 of the statutes is created to read:

20.547 Personnel commission. There is appropriated to the personnel commission for the following program:

(1) REVIEW OF PERSONNEL DECISIONS. (a) *General program operations.* The amounts in the schedule for review of personnel decisions under s. 230.45.

SECTION 73m. 20.865 (1) (c) (intro.), as affected by chapters 29 and 44, laws of 1977, and (ci) of the statutes are amended to read:

20.865 (1) (c) *Pay plan adjustments.* (intro.) A sum sufficient to pay the cost of pay adjustments approved by the joint committee on employment relations under s. 16.086 and by the legislature, when required, for employes of the classified service and comparable adjustments for those employes in the unclassified service, except those included under ss. 16.08 (2) (d) and (f) and 20.923 ~~(5)~~ and (6) (c) and (m) as

determined and allocated under subs. 1 and 2. Unclassified employes included under s. 20.923 (2) need not be paid comparable adjustments.

(ci) *University system faculty and academic pay adjustments.* A sum sufficient to pay the cost of pay adjustments approved by the legislature or the joint committee on employment relations under s. 16.086 (3) (e) for university of Wisconsin system employes under ss. 16.08 (2) (d) and 20.923 ~~(5)~~ and (6) (m).

SECTION 74. 20.923 (4) (intro.) and (9) of the statutes are amended to read:

20.923 (4) (intro.) DEPARTMENT AND AGENCY POSITIONS. Department and agency heads, the administrator of the division of personnel in the department of employment relations, commission chairmen chairpersons and members, ~~unclassified division administrators~~ and higher education administrative positions shall be identified and limited in number in accordance with the standardized nomenclature contained in this subsection, and shall be assigned to the following executive salary groups: listed in pars. (a) to (j). All unclassified division administrator positions shall be assigned, when approved by the joint committee on employment relations, by the administrator of the division of personnel to one of the 10 executive salary groups.

(9) EXECUTIVE ASSISTANTS. Salaries for executive assistants appointed ~~pursuant to~~ under ss. 15.05 (3), ~~15.06 (4m)~~ and 195.03 (27), shall be set by the appointing authority. The salary shall not exceed the maximum of the salary range 2 ranges below the salary range of the executive salary group to which the department or agency head is assigned. The position of administrative assistant to the lieutenant governor shall be treated as are executive assistants for pay purposes under this subsection.

SECTION 75. 20.923 (4) (a) 3 and 5, (b) 5m, (c) 1 and 2, (d) 2 and 8m, (e) 3 and (f) 3 and (4c) of the statutes, as affected by chapter 29, laws of 1977, are repealed.

SECTION 76. 20.923 (4) (c) 4m and (4) (d) 4m of the statutes are created to read:

20.923 (4) (c) 4m. Personnel commission: chairperson and members. The governor, at the time a new member of the personnel commission is appointed, shall specify the proportion of the salary which is within the range for the group under this paragraph and which shall be paid to the new member. The governor shall base the salary on the anticipated workload and responsibilities of the commission during the term of the new member.

(d) 4m. Employment relations, department of; division of personnel: administrator.

SECTION 76m. 20.923 (4) (g) 1, (5) and (15) of the statutes are repealed and recreated to read:

20.923 (4) (g) 1. Employment relations, department of: secretary.

(5) UNIVERSITY OF WISCONSIN SYSTEM POSITIONS. (a) Except for those positions designated in sub. (4), the positions of associate and assistant vice presidents of the university of Wisconsin system; vice chancellors not identified in sub. (8), assistant chancellors, associate and assistant vice chancellors and assistants to the chancellors, along with administrative directors and associate directors of activities coded as physical plant, general operations and services and auxiliary enterprises or their equivalent, of the several campuses of the university of Wisconsin system shall be assigned, when approved by the joint committee on employment relations, by the board of regents of the university of Wisconsin system to a specific executive salary group under sub. (4) or, where appropriate, to a lower salary range equivalent to a salary range established in pay schedule 1 in the state classification and compensation plan for positions in the classified service. Assignments of positions under this paragraph shall be no higher than a salary range equivalent to the salary range for executive salary group 5. Any subsequent assignment or reassignment of any position under this

subsection by the board of regents shall take effect only after approval by the joint committee on employment relations.

(b) Any official affected by this subsection whose salary exceeds the maximum of the executive salary group to which his or her position is assigned under par. (a) shall remain at his or her current rate of pay as provided in sub. (16).

(15) SALARY ADMINISTRATION. Any increase or adjustment of salary for any incumbent in a position specified in subs. (4), (5) and (8) to (14) shall be governed by the provisions of the executive salary groups compensation plan as adopted by the joint committee on employment relations under s. 230.12 (3) (b).

SECTION 77. 20.926 (1) (am) of the statutes is created to read:

20.926 (1) (am) Notwithstanding par. (a), no person coming under the provisions of this section on or after the effective date of this act (1977) shall have benefits determined under this section for any period of service rendered prior to the time the person became subject to this section.

SECTION 77m. 40.16 (2) of the statutes is amended to read:

40.16 (2) The state shall contribute toward the payment of premiums for health insurance under this section an amount equal to 50% of the gross premium for any insured employe, who is not an annuitant or who is not a retired employe qualifying for continued insurance coverage under s. 40.19 (2), and his or her dependents for the standard health insurance coverage determined by the board. The amount to be contributed by the state under this subsection shall be increased on January 1, 1970, to 75% and on July 1, 1970, to 90% of the premium for the standard health insurance coverage, but except that such increased contributions by the state shall not be made for teachers, as defined in s. 42.20, in the unclassified service of the state and except that the state shall, after the effective date of this act (1977), contribute 50% of the premium for standard health insurance coverage under this section for insured employes in permanent part-time positions or project positions as defined in s. 230.27 who work at least 600 but less than 1,044 hours per year. The state shall contribute toward the payment of premiums for health insurance under this section an amount equal to 90% of the gross premium for all teachers, as defined in s. 42.20, in the unclassified service of the state, commencing July 1, 1972.

SECTION 78. 49.50 (3) of the statutes is amended to read:

49.50 (3) PERSONNEL EXAMINATIONS. State-wide Statewide examinations to ascertain qualifications of applicants in any county department administering aid to families with dependent children shall be given by the ~~director of personnel as defined in s. 16.02 (6)~~ administrator of the division of personnel of the department of employment relations. The department of ~~administration employment relations~~ shall be reimbursed for actual expenditures incurred in the performance of its functions under this section from the appropriations available to the department of health and social services for administrative expenditures.

SECTION 79. 62.13 (4) (d) of the statutes is amended to read:

62.13 (4) (d) The examination shall be free for all U.S. citizens of the ~~United States~~ over 18 and under 55 years of age, with proper limitations as to residence, health, habits and character. ~~They~~ The examination, including minimum training and experience requirements, shall be ~~practical in their character, and relate to those matters which will fairly test the capacity of the candidates for the positions they seek, job-related in compliance with appropriate validation standards and shall be subject to the approval of the board~~ and may include tests of manual skill and physical strength. All relevant experience, whether paid or unpaid, shall satisfy experience requirements. The board shall control examinations and may designate and change examiners, who may or may not be otherwise in the official service of the city, and whose compensation shall be fixed by the board and paid by the city. ~~In the case of veterans, other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States. Preference is defined to mean that whenever an honorably discharged veteran competes in any examination he shall be accorded 5~~

~~points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein, except that such preference shall not be granted to any veteran competing in such examination who has not obtained at least a passing grade~~ Veterans shall be given preference points in accordance with s. 230.16 (7).

SECTION 80. 63.05 (2) of the statutes is amended to read:

63.05 (2) The commission shall impose no restrictions as to age in case of veterans and ~~in the certification of eligibles, other conditions being equal, shall give preference to veterans of any of the wars of the United States, including the Korean or Viet Nam conflict.~~ "Viet Nam conflict" means service in accordance with the dates specified in s. 45.35 (5) or as currently or subsequently defined by the congress of the United States or executive order. "Preference" means that whenever an honorably discharged veteran competes in any examination before the commission and passes the minimum grade he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein veterans shall be given preference points in accordance with s. 230.16 (7).

SECTION 80m. 63.05 (6) of the statutes is created to read:

63.05 (6) All examinations, including minimum training and experience requirements, for positions under this section shall be job-related in compliance with appropriate validation standards and shall be subject to the approval of the commission. All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

SECTION 80r. 63.32 of the statutes is amended to read:

63.32 Applicants to be examined; character of examinations. All applicants for offices, places or employments in the civil service of such city, except those mentioned in s. 63.27, shall have been residents of this state for one year prior to their application for examination, and shall be subject to examination under and in accordance with the rules so made by said commissioners; except that for technical and professional services the commission may open the examination to residents of other states who are citizens of the United States and except, further, that for other services the commission shall not be precluded from requiring longer periods of residence within the city, county or state for entrance to examinations. Such examinations, including minimum training and experience requirements, shall be ~~practical in their character and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the particular service to which they seek to be appointed,~~ job-related in compliance with appropriate validation standards and may include tests of physical qualifications, and, when appropriate, of manual skill. All relevant experience, whether paid or unpaid, shall satisfy experience requirements. No otherwise qualified blind persons shall be discriminated against in examination, reexamination, appointment, reappointment, promotion or demotion unless eyesight is absolutely indispensable for the performance of the duties and responsibilities of the position. No question in any examination shall relate to political or religious opinions or affiliations, and no appointment or selection to an office or for employment within the scope of the rules established as aforesaid shall be in any manner affected or influenced by such opinions or affiliations. All such applicants may be examined by a competent physician as to the soundness of their health for the work to be performed. Upon the request of an applicant or an eligible for a civil service position who is blind, the department of health and social services, shall obtain from the city civil service commission a detailed description of all duties entailed by such position and shall investigate the necessity for eyesight in the fulfillment of the duties of any position, and shall determine and report its findings to the civil service commission, as to the physical ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the physical qualifications of any applicant or eligible so examined.

SECTION 81. 63.37 of the statutes is amended to read:

63.37 Board to keep a register of eligibles. From the returns or reports of the examiners, or from the examinations made by the board, the board shall prepare and keep a register for each grade or class of position in the service of such city, of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by the rules of such board, and who are otherwise eligible, and such persons shall take rank upon the register as candidates in the order of their relative excellence as determined by examination without reference to priority of time of examination; ~~provided, however, that other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States. Preference is hereby defined to mean that whenever an honorably discharged veteran competes in any examination before the board and passes the minimum grade he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein.~~ The board shall impose no restrictions as to age in case of veterans and veterans shall be given preference points in accordance with s. 230.16 (7).

SECTION 82. 66.19 (1) of the statutes is amended to read:

66.19 (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or 66.01 to establish a civil service system of selection, tenure and status, and the system may be made applicable to all municipal personnel except the chief executive and members of the governing body, members of boards and commissions including election officials, the teaching staff of the city school district, employes subject to s. 62.13, members of the judiciary and supervisors. In the case of veterans there shall be no restrictions as to age and, ~~other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States. "Preference" means that whenever an honorably discharged veteran competes in any examination he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein, except such preference shall not be granted to any veteran competing in any such examination who has not attained at least a passing grade~~ veterans shall be given preference points in accordance with s. 230.16 (7). Such system may also include uniform provisions in respect to attendance, leave regulations, compensation and payrolls for all personnel included thereunder. The governing body of any city or village adopting a civil service system under this section may exempt therefrom the librarians and assistants subject to s. 43.09 (1).

SECTION 82m. 66.19 (5) of the statutes is created to read:

66.19 (5) All examinations given in a civil service system established under this section, including minimum training and experience requirements, for positions in the classified service shall be job-related in compliance with appropriate validation standards and shall be subject to the approval of the board or commission appointed under sub. (4). All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

SECTION 83. 111.32 (3) of the statutes is amended to read:

111.32 (3) The term "employer" shall include this each agency of the state as defined under s. 230.03 (3) and any employer as defined in s. 41.02 (4), but shall not include a social club, fraternal or religious association not organized for private profit.

SECTION 84. 111.33 of the statutes, as affected by chapter 29, laws of 1977, is renumbered 111.33 (1) and amended to read:

111.33 (1) This Except as provided under sub. (2), this subchapter shall be administered by the department. The department may make, amend and rescind such rules as are necessary to carry out this subchapter. The department or the commission may, by such agents or agencies as it designates, conduct in any part of this state any proceeding, hearing, investigation or inquiry necessary to the performance of its functions. The department shall preserve the anonymity of any employe who is the aggrieved party in a complaint of discrimination in promotion, compensation or terms

Senate Bill 2

and conditions of employment against his or her present employer until a determination as to probable cause has been made, unless the department determines that such anonymity will substantially impede the investigation.

SECTION 85. 111.33 (2) of the statutes is created to read:

111.33 (2) This subchapter shall apply to each agency of the state except that complaints of discrimination against such agency as an employer shall be filed with and processed by the personnel commission under s. 230.45 (1) (b). Decisions of the commission shall be subject to review under ch. 227, except that a party may, within 30 days after service of the decision upon all parties, file a petition with the department to review the decision. Review by the department shall be based on the record. The scope of review shall be the same as judicial review under s. 227.20. Decisions of the department shall be reviewed under s. 111.36 (3m) except that the commission shall issue a decision on a review under this subsection within 90 days after the filing of the petition for review.

SECTION 86. 111.35 (intro.) of the statutes is amended to read:

111.35 Investigation and study of discrimination. (intro.) The Except as provided under s. 111.33 (2), the department shall:

SECTION 87. 111.36 (title) of the statutes is amended to read:

111.36 (title) Powers and duties of department.

SECTION 88. 111.36 (intro.) of the statutes is created to read:

111.36 (intro.) Except as provided under s. 111.33 (2), the department shall have the following powers and duties in carrying out this subchapter:

SECTION 89. 111.80 (4) of the statutes is amended to read:

111.80 (4) It is the policy of this state, in order to preserve and promote the interests of the public, the state employe and the state as an employer alike, to encourage the practices and procedures of collective bargaining in state employment subject to the requirements of the public service and related laws, rules and policies governing state employment, by establishing standards of fair conduct in state employment relations and by providing a convenient, expeditious and impartial tribunal in which these interests may have their respective rights determined. ~~In the furtherance of this policy the secretary of administration shall establish an employment relations capability within the department of administration and shall, along with the appointing authorities or their representatives, represent the state in its responsibility as an employer under this subchapter. The department shall establish and maintain, wherever practicable, consistent employment relations policies and practices throughout the state service.~~

SECTION 90. 111.81 (7) and (15) of the statutes are amended to read:

111.81 (7) "Department" means the department of ~~administration~~ employment relations.

(15) "Employe" includes any state employe in the classified service of the state, as defined in s. ~~46.08 230.08~~, except limited term employes, sessional employes, project employes, employes who are performing in a supervisory capacity, management employes and individuals privy to confidential matters affecting the employer-employe relationship, as well as all employes of the commission.

SECTION 91. 111.81 (16) of the statutes is repealed and recreated to read:

111.81 (16) "Employer" means the state of Wisconsin.

SECTION 92. 111.815 of the statutes is created to read:

111.815 Duties of state. (1) In the furtherance of this subchapter, the state shall be considered as a single employer and employment relations policies and practices throughout the state service shall be as consistent as practicable. The executive branch shall negotiate and administer collective bargaining agreements. To coordinate the employer position in the negotiation of agreements, the executive branch shall

maintain close liaison with the legislature relative to the negotiation of agreements and the fiscal ramifications thereof. The department of employment relations is responsible for the employer functions of the executive branch under this section, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern. The legislative branch shall act upon those portions of tentative agreements negotiated by the executive branch which require legislative action.

(2) In the furtherance of the policy under s. 111.80 (4), the secretary of the department of employment relations shall establish a collective bargaining capability within the department outside of the division of personnel and shall, along with the appointing authorities or their representatives, represent the state in its responsibility as an employer under this subchapter. The secretary shall establish and maintain, wherever practicable, consistent employment relations policies and practices throughout the state service.

SECTION 93. 111.91 (3) of the statutes is amended to read:

111.91 (3) The employer may bargain and reach agreement with a union representing a certified unit to provide for an impartial hearing officer to hear appeals on differences arising under actions taken by the employer under sub. (2) (b) 1 and 2. The hearing officer shall make a decision accompanied by findings of fact and conclusions of law. The decision shall be reviewed by the personnel board commission ~~under s. 230.45 (1) (f)~~ on the record and either affirmed, modified or reversed, and the ~~personnel's board's~~ personnel commission's action shall be subject to review ~~pursuant to~~ under ch. 227. Nothing in this subsection shall empower the hearing officer to expand the basis of adjudication beyond the test of "arbitrary and capricious" action, nor shall anything in this subsection diminish the authority of the ~~personnel board~~ commission under s. ~~46.05 (1)~~ 230.45.

SECTION 94. 111.915 of the statutes is created to read:

111.915 Labor proposals. The secretary of the department shall notify and consult with the joint committee on employment relations, in such form and detail as the committee requests, regarding substantial changes in wages, employe benefits, personnel management, and program policy contract provisions to be included in any contract proposal to be offered to any labor organization by the state or to be agreed to by the state before such proposal is actually offered or accepted.

SECTION 95. Title XIX-A (title) of the statutes is created to read:

TITLE XIX-A
STATE PERSONNEL
(precedes ch. 230)

SECTION 96. Chapter 230 (title) of the statutes is created to read:

CHAPTER 230
EMPLOYMENT RELATIONS

SECTION 97. Subchapter I (title) of chapter 230 of the statutes is created to read:

CHAPTER 230
SUBCHAPTER I
ADMINISTRATIVE SERVICES
(precedes s. 230.01)

SECTION 98. 230.01 of the statutes is created to read:

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

(2) It is the policy of the state and the responsibility of the secretary and the administrator to maintain a system of personnel management which fills positions in

the classified service through methods which apply the merit principle, with adequate civil service safeguards. It is the policy of this state to provide for equal employment opportunity by ensuring that all personnel actions including hire, tenure or term, and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, handicap, sex, national origin, ancestry or political affiliation. If there are substantial disparities between the proportions of members of racial, ethnic, gender, or handicap groups in a classified civil service classification in an agency and the proportions of such groups in this state, it is the policy of this state to take affirmative action which is not in conflict with other provisions of this subchapter to correct the imbalances and to eliminate the present effects of past discrimination. It is the policy of the state to ensure its employees opportunities for satisfying careers and fair treatment based on the value of each employee's services.

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

SECTION 99. 230.02 of the statutes is created to read:

230.02 Liberal construction of statutes. Statutes applicable to the department shall be construed liberally in aid of the purposes declared in s. 230.01.

SECTION 100. 230.03 (1) to (3), (4m), (8) to (10) and (11m) of the statutes are created to read:

230.03 (1) "Administrator" means the administrator of the division.

(2) "Affirmative action" means specific actions in employment which are designed and taken for the purpose of ensuring equal opportunity and eliminating present effects of past discrimination.

(3) "Agency" means any state board, commission, committee, council, department or unit thereof created by the constitution or statutes if such board, commission, committee, council, department, unit or the head thereof, is authorized to appoint subordinate staff by the constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof.

(4m) "Balanced work force" means representation in a classified civil service classification in an agency of any racial, ethnic, gender or handicap group at the rate of that group's representation in that part of the state labor force qualified and available for employment in such classification.

(8) "Commission" means the personnel commission.

(9) "Department" means the department of employment relations.

(10) "Division" means the division of personnel in the department.

(11m) "Secretary" means the secretary of the department.

SECTION 101. 230.04 of the statutes is created to read:

230.04 Powers and duties of the secretary. (1) The secretary is charged with the effective administration of this chapter. All powers and duties, necessary to that end, which are not exclusively vested by statute in the commission, the administrator or appointing authorities, are reserved to the secretary.

(1m) The secretary may delegate, in writing, any of his or her functions set forth in this chapter to an appointing authority, within prescribed standards if the secretary finds that the agency has personnel management capabilities to perform such functions effectively and has indicated its approval and willingness to accept such responsibility by written agreement. If the secretary determines that any department is not performing such delegated function within prescribed standards, the secretary shall forthwith withdraw such delegated function. Any delegatory action taken under this subsection on any matter under subch. II by any appointing authority may be appealed to the personnel commission under s. 230.44 (1) (b). The secretary shall be a party in such appeal.

(2) The secretary may utilize the services of technical or specialized personnel to assist in implementing and maintaining a sound personnel management program. These services may be obtained from persons inside or outside of state service.

(3) The secretary may issue enforceable orders on all matters relating to the administration, enforcement and effect of this chapter and the rules prescribed thereunder except on matters relating to the provisions of subch. II, the responsibility for which is specifically charged to the administrator.

(4) The secretary shall establish and maintain a collective bargaining capability under s. 111.815 (2).

(5) The secretary shall promulgate rules on all matters relating to the administration of the department and the performance of the duties assigned to the secretary, except on matters relating to the provisions of subch. II, the responsibility for which is specifically charged to the administrator.

(6) The secretary shall submit any proposal for the creation or abolition of any bureau within the division to the board for approval.

(7) The secretary shall appoint, under the classified service, the staff necessary for performing the duties of the department, including the staff of the division.

(8) The secretary shall establish an employe work planning and performance evaluation program under s. 230.37 (1).

(9) The secretary shall establish an affirmative action office reporting directly to the secretary for the purpose of ensuring equal opportunity in employment and eliminating present effects of past discrimination. The affirmative action office shall advise and assist the secretary, the administrator and agency heads on establishing programs to ensure equal opportunity and, when appropriate, affirmative action as indicated in s. 230.01. The office shall advise and assist the secretary in monitoring such programs and shall provide staff to the affirmative action council.

(10) The secretary may require all agencies and their officers to comply with the secretary's request to furnish current information pertaining to authorized positions, payroll and related items regarding civil service and employment relations functions.

SECTION 102. 230.045 of the statutes is created to read:

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

SECTION 103. 230.046 (2) and (4) of the statutes are created to read:

230.046 (2) **SUPERVISORY TRAINING.** After initial appointment to a supervisory position, each classified service supervisor shall successfully complete a supervisory development program approved by the secretary. A waiver of any part of the probationary period under s. 230.28 (1) (c) may not be granted before completion of the development program. The program shall include such subjects as state personnel policies, grievance handling, discipline, performance evaluation and the supervisor's role in management.

(4) **RECORDS OF TRAINING PROGRAM PARTICIPATION.** Each agency shall adopt a standardized system for measuring, recording, reporting, accumulating and recognizing employe participation in its training program. The system may not take effect until approved by the secretary.

SECTION 104. Subchapter II (title) of chapter 230 of the statutes is created to read:

SUBCHAPTER II

CIVIL SERVICE

(precedes s. 230.05)

SECTION 105. 230.05 (1), (2) (b), (6) and (7) of the statutes are created to read:

230.05 (1) All powers necessary for the effective administration of the duties specified for the administrator under this subchapter are reserved to the administrator.

(2) (b) The administrator may not delegate any of his or her final responsibility for the monitoring and oversight of the civil service system under this subchapter.

(6) The administrator may seek the prior advice and counsel of agency heads in the formulation of policies and procedures under this subchapter, including, but not limited to, recruitment, examination, selection, classification and rule changes.

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

SECTION 106. 230.06 (2) of the statutes is created to read:

230.06 (2) An appointing authority may delegate in writing part or all of his or her power of appointment, including discipline and removal.

SECTION 107. 230.07 (7) of the statutes is created to read:

230.07 (7) The board shall participate in the hiring and evaluation of the administrator under s. 15.173.

SECTION 108. 230.08 (2) (L) and (m) and (4) of the statutes are created to read:

230.08 (2) (L) One deputy of the head of any of the following agencies:

1. Office of commissioner of banking, created under s. 15.55.
2. Educational communications board, created under s. 15.57.
3. Office of commissioner of credit unions, created under s. 15.59.
4. Higher educational aids board, created under s. 15.67.
5. Office of commissioner of insurance, created under s. 15.73.
6. Office of commissioner of savings and loan, created under s. 15.82.
7. Office of commissioner of securities, created under s. 15.85.

(m) One executive assistant of the commission chairperson of each of the following agencies:

1. Labor and industry review commission, created under s. 15.225.
2. Employment relations commission, created under s. 15.58.
3. Public service commission, created under s. 15.79.

(4) DIVISION ADMINISTRATORS. (a) In this subsection, "secretary" includes the attorney general and the state superintendent of public instruction. The unclassified service shall include the number of division administrator positions in any agency which, on the effective date of this act (1977), is headed by a secretary and which are assigned to pay range 18 or above in schedule 1 of the state compensation plan for the classified service, and 2 division administrator positions in the department in addition to the position of the administrator of the division of personnel except:

1. The administrator of any division in the department of revenue which functions primarily in the area of income, sales and excise tax administration.
2. The administrator of any division in the department of employe trust funds.

3. The administrator of any division in the department of justice which functions primarily in the area of criminal investigations.

4. The administrator of any division in the department of veterans affairs responsible for supervision of the Wisconsin veterans home at King.

(b) No unclassified position in addition to a position created under par. (a) may be created without the approval of the legislature.

SECTION 109. 230.09 (2) (g) and (3) of the statutes are created to read:

230.09 (2) (g) When filling a new or vacant position, if the administrator determines that the classification for a position is different than that provided for by the legislature as established by law or in budget determinations, or as authorized by the joint committee on finance acting under s. 13.101 or as otherwise provided by law, or as specified by the governor acting under s. 16.54 or creating positions funded under s. 20.001 (2) (b), or is different than that of the previous incumbent, the administrator shall withhold action on the selection and certification process and notify the secretary of administration. The secretary of administration shall review the position to determine that sufficient funds exist for the position and that the duties and responsibilities of the proposed position reflect 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). The administrator may not proceed with the selection and certification process until the secretary of administration has authorized the position to be filled.

(3) The administrator shall establish separate classifications for career executive positions under s. 230.24 and rules governing the salary administration of positions in such classifications.

SECTION 110. 230.14 of the statutes is created to read:

230.14 Recruitment. (1) Recruitment for classified positions shall be an active continuous process conducted in a manner that assures a diverse, highly qualified group of applicants; shall be conducted, except as provided under sub. (2), on the broadest possible base consistent with sound personnel management practices; and shall contribute to the achievement of a balanced work force. Due consideration shall be given to the provisions of s. 230.19.

(2) The administrator may recruit outside of this state only if the administrator determines that there is a critical shortage in this state of persons possessing the skills or qualifications required for the position.

(3m) In advertising openings in the classified civil service, the state may not require as a condition of application that an applicant be a college graduate unless the opening must be filled by an incumbent holding a license or registration in an occupation regulated by law and college graduation is required to obtain the occupational license or registration.

SECTION 110m. 230.145 of the statutes is created to read:

230.145 Notice of vacancy. If it is possible that a vacant position will be filled with a person from within the civil service, every announcement of the vacancy shall clearly state such possibility.

SECTION 111. 230.16 (6) and (7) of the statutes are created to read:

230.16 (6) If any applicant is unable to complete the examination in the form presented to the applicant due to a handicap, the division shall provide a reader, an appropriate place to take the examination or other similar prerequisites to ensure equality of opportunity in the examination.

(7) A preference shall be given to any qualifying veteran who gains eligibility on any competitive employment register and who does not currently hold a permanent appointment or have mandatory restoration rights to a permanent appointment to any position. A preference means that if a veteran gains eligibility on any competitive

Nov. 1977 Spec.Sess.
Senate Bill 2

872

employment register and does not currently hold a permanent appointment or have mandatory restoration rights to a permanent appointment to any position, 5 points shall be added to his or her grade. If a veteran has a disability which is directly traceable to war service, the veteran shall be accorded a total of 10 points. "Veteran" as used in this subsection means any person who served on active duty under honorable conditions in the U.S. armed forces who was entitled to receive either the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, or the Viet Nam service medal established by executive order 11231 on July 8, 1965, or for at least one day during a war period, as defined in s. 45.35 (5) (a) to (g) or under section 1 of executive order 10957 dated August 10, 1961. This subsection applies to the award of credit to veterans under ss. 62.13 (4) (d), 63.05 (2), 63.37 and 66.19 (1).

SECTION 112. 230.19 (1) of the statutes is created to read:

230.19 (1) The administrator shall provide employes with reasonable opportunities for career advancement, within a classified service structure designed to achieve and maintain a highly competent, balanced work force.

SECTION 112m. 230.215 of the statutes is created to read:

230.215 Part-time employment and flexible-time schedules. (1) DECLARATION OF POLICY. The legislature finds and declares:

(a) That employment practices which provide flexibility in scheduling hours of work often result in increased worker productivity, reduced absenteeism, improved employe morale and a more economical and efficient use of energy, highways and other transit systems.

(b) That traditional full-time work patterns fail to meet the needs of many potentially productive citizens who, due to age, health or family circumstances, are effectively prevented from engaging in full-time employment.

(c) That a greater number of permanent part-time employment opportunities are necessary to allow citizens a higher level of participation in the work force and to permit a greater utilization of the skills, talents and abilities of all citizens who want to work.

(d) That it is the intent of the legislature that all agencies of state government participate in developing and creating flexible-time work schedules, additional permanent part-time positions and other alternative work patterns in order to maximize, in a manner consistent with the needs of state service, the employment options available to existing and potential state employes.

(e) That it is the intent of the legislature that all agencies of state government make available permanent part-time employment opportunities in classified positions.

(2) FLEXIBLE-TIME EMPLOYMENT SCHEDULING. In this subsection "flexible-time schedule" means a work schedule which includes required days or hours during which an employe subject to the work schedule must be present for work and designated hours during which the employe, with the approval of his or her supervisor, may elect a time of arrival to and departure from work. Every agency shall develop a plan for the establishment of employe flexible-time schedule experiments. The plan shall attempt to maximize efficiency of agency operations, the level of services to the public, energy conservation and employe productivity and shall consider traffic congestion, transit facilities and other relevant factors.

(3) PART-TIME EMPLOYMENT. (a) An agency may, with the approval of the secretary and with the approval of the secretary of administration under s. 16.50, restructure budgeted permanent positions as such positions become vacant or if an employe voluntarily requests a job-sharing or permanent part-time employment opportunity. No employe occupying a full-time permanent position may be involuntarily terminated, demoted, transferred or reassigned in order to restructure that position for permanent part-time employment and no such employe may be

required to accept a permanent part-time position as a condition of continued employment.

(b) If the secretary, upon review of the report submitted under sub. (4), determines that an agency's past or proposed actions relating to permanent part-time employment opportunities do not adequately reflect the policy under sub. (1) (e), the secretary may recommend procedures designed to enable the agency to effect such policy.

(4) **REPORTS.** Each agency, in complying with s. 15.04 (4), shall include a report on the progress or failure of the plans of such agency in achieving the policies stated under sub. (1) and shall submit a copy of such report to the secretary.

(5) **NONAPPLICATION.** Section 230.35 (5) does not apply to employes subject to part-time employment and employe flexible-time scheduling under this section.

SECTION 113. 230.22 (3) of the statutes is created to read:

230.22 (3) Examination and certification under the program created under this section shall be consistent with other provisions of this subchapter.

SECTION 114. 230.24 (2) of the statutes is created to read:

230.24 (2) A vacancy in a career executive position may be filled through an open competitive examination, a competitive promotional examination or by restricting competition to employes in career executive positions in order to achieve and maintain a highly competent, balanced work force in career executive positions. The appointing authority shall consider the guidelines under s. 230.19 when deciding how to fill a vacancy under this paragraph

SECTION 115. 230.25 (1m) of the statutes is created to read:

230.25 (1m) After certifying names under sub. (1), additional names shall be certified in rank order of those who with the combination of veterans preference points awarded under s. 230.16 (7) and examination score earn a total score equal to or higher than the lowest score of those certified on the basis of examination only. The number of veterans added to the list may not exceed the number of names certified under sub. (1).

SECTION 116. 230.27 of the statutes is created to read:

230.27 Project appointments. In this section "project employment" means employment of at least 600 hours per year, other than short-term employment, in a planned undertaking which is not a regular and continuing function of the employing agency and which has an established probable date of termination. The administrator may provide by rule for the selection and appointment of persons to project employment. An employe in a project employment position shall after 6 months receive all rights and privileges specifically authorized for state employes by statute except tenure, transfer, reinstatement, promotion eligibility and layoff benefits. Such employes' vacation, holidays under s. 230.35 (4) (d) and sick leave shall be on a prorated basis. Appointments under this section may not extend for a period of more than 4 years, commencing with authorization for the position.

SECTION 117. 230.28 (1) (am) and (2) of the statutes are created to read:

230.28 (1) (am) All probationary periods for employes in supervisor or management positions shall be one year unless waived after 6 months under par. (c).

(2) A probationary employe's supervisor shall complete a performance evaluation under s. 230.37 of the employe's work. The evaluation shall be in writing and shall indicate whether or not the employe's services have been satisfactory and whether or not the employe will be retained in his or her position. A copy of the evaluation shall be given to the employe at a reasonable time before the completion of the employe's probation. An employe shall gain permanent status unless terminated by the appointing authority prior to the completion of his or her probationary period.

SECTION 117m. 230.335 of the statutes is created to read:

230.335 Rights of unclassified division administrators. If any employe in a classified position of division administrator on the effective date of this act (1977) is made unclassified under chapter ... (this act), laws of 1977, and if the incumbent division administrator is not thereafter appointed to such position, or if the incumbent is hired and subsequently terminated for any reason except just cause, the incumbent division administrator shall have appointment rights, including bumping if necessary, to a comparable or lower level position which is within the agency wherein the division administrator position is located. The incumbent shall have 90 days after notice of termination to exercise such appointment rights.

SECTION 118. 230.35 (2r) of the statutes is created to read:

230.35 (2r) Retirement and group insurance benefits for employes in permanent part-time or project positions as defined in s. 230.27 shall be governed by the applicable provisions of chs. 40, 41 and 42, except that the state shall contribute 50% of the employer's contribution for standard health insurance coverage as specified under s. 40.16 (2) for insured employes in permanent part-time positions or project positions who work at least 600 but less than 1,044 hours per year.

SECTION 119. 230.36 (4) of the statutes is created to read:

230.36 (4) An employe denied benefits under this section may appeal to the commission under s. 230.45 (1) (d).

SECTION 121. 230.44 of the statutes is created to read:

230.44 Appeal procedures. (1) APPEALABLE ACTIONS AND STEPS. (a) *Decision of administrator.* Appeal of a personnel decision of the administrator, including but not limited to a refusal to examine an applicant or certify an eligible under s. 230.17, orders by the administrator under s. 230.05 (4) and actions and decisions of the administrator under s. 230.09, shall be to the commission.

(b) *Action delegated by administrator.* Appeal of an action delegated by the administrator to an appointing authority under s. 230.05 (2) or by the secretary under s. 230.04 (1m) shall be to the commission.

(c) *Demotion, layoff, suspension or discharge.* If an employe has permanent status in class, the employe may appeal a demotion, layoff, suspension, discharge or reduction in pay to the commission, if the appeal alleges that the decision was not based on just cause.

(d) *Illegal action or abuse of discretion.* A personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the commission.

(2) FORM. All appeals filed under this section shall be in writing.

(3) TIME LIMITS. Any appeal filed under this section may not be heard unless the appeal is filed within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later, except that if the appeal alleges discrimination under subch. II of ch. 111, the time limit for that part of the appeal alleging such discrimination shall be 300 days after the alleged discrimination occurred.

(4) HEARING. (a) A hearing under this section shall be open to the public unless the appellant requests that the hearing be closed.

(b) An employe shall attend a hearing under this subsection and testify when requested to do so by the commission. Any person not under the civil service who appears before the commission by order shall receive for his or her attendance the fees and mileage provided for witnesses in civil actions in courts of record under ch. 885, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the commission and charged to the proper appropriation for the commission. No witness subpoenaed at the insistence of a party other than the commission is entitled to

compensation from the state for attendance or travel, unless the commission certifies that his or her testimony was relevant and material to the matter investigated.

(c) After conducting a hearing on an appeal under this section, the commission shall either affirm, modify or reject the action which is the subject of the appeal. If the commission rejects or modifies the action, the commission may issue an enforceable order to remand the matter to the person taking the action for action in accordance with the decision. Any action brought against the person who is subject to the order for failure to comply with the order shall be brought and served within 60 days after the date of service of the commission's decision.

(d) The commission may not remove an incumbent or delay the appointment process as a remedy to a successful appeal under this section unless there is a showing of obstruction or falsification as enumerated in s. 230.43 (1).

(e) Any party in an action under this section may be present at a hearing in the action under this section, in person, by attorney or by any other agent.

(f) The commission shall issue a decision on an action under this section within 90 days after the hearing on the action is completed.

SECTION 122. 230.45 of the statutes is created to read:

230.45 Powers and duties of personnel commission. (1) The commission shall:

(a) Conduct hearings on appeals under s. 230.44.

(b) Receive and process complaints of discrimination under s. 111.33 (2).

(c) Serve as final step arbiter in a state employe grievance procedure relating to conditions of employment, subject to rules of the secretary providing the minimum requirements and scope of such grievance procedure.

(d) Hear appeals under s. 230.36 (4).

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

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

(h) Keep minutes of its own proceedings and other official actions. All such records shall, subject to reasonable rules, be open to public inspection. Records of the administrator which are confidential shall be kept confidential by the commission.

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

SECTION 123. 230.46 of the statutes is created to read:

230.46 Duties of council on affirmative action. The council on affirmative action in the department shall evaluate the progress of affirmative action programs throughout the civil service system, seek compliance with state and federal regulations and recommend improvements in the state's affirmative action efforts as an employer. In carrying out its responsibilities, the council may recommend legislation, consult with agency personnel and other interested persons, conduct hearings and take other appropriate action to promote affirmative action. The council shall report at least once per year to the governor and the legislature.

SECTION 124. **Initial terms.** (1) COUNCIL ON AFFIRMATIVE ACTION. The first members of the council on affirmative action in the department of employment relations created by section 15.177 (1) of the statutes shall be appointed for the following terms: 5 for a term of 3 years; 5 for a term of 2 years; and 5 for a term of 1 year.

(2) PERSONNEL COMMISSION. The first members of the personnel commission created by section 15.80 of the statutes shall be appointed by the personnel board under section 15.06 (1) (d) of the statutes for the following terms: one for a term of 5 years; one for a term of 3 years; and one for a term of one year.

(3) **PERSONNEL BOARD.** The first members of the personnel board, as affected by this act, shall be appointed by the governor for the following terms: the members appointed from the lists submitted by the minority leader of the assembly and the speaker of the assembly for a term of 5 years; the members appointed from the lists submitted by the minority leader of the senate and the president pro tempore of the senate for a term of 3 years; and the member nominated by the governor for a term of one year.

SECTION 125. Program responsibilities. (1) In the list of program responsibilities specified for the department of administration in section 15.101 (intro.) of the statutes, delete reference to "subch. V of ch. 111" and to section "49.50".

SECTION 126. Appropriation transfers. (1) **DEPARTMENT OF ADMINISTRATION.** (a) *Civil service administration.* The unencumbered balance of the appropriation made to the department of administration under section 20.505 (1) (a) of the statutes, related to the division of employment relations and the affirmative action program, shall be transferred on July 1, 1978, to the appropriation under section 20.512 of the statutes, as created by this act.

(b) *Personnel board appeals.* The unencumbered balance of the appropriation made to the department of administration under section 20.505 (7) of the statutes, as repealed by this act, for processing appeals to the personnel board under section 111.91 (3) and subchapter II of chapter 16 of the statutes, shall be transferred on July 1, 1978, to the appropriation under section 20.547 of the statutes, as created by this act.

(c) *Personnel board investigations.* The unencumbered balance of the appropriation made to the department of administration under section 20.505 (7) of the statutes, as repealed by this act, for personnel board investigations under section 16.05 (4) of the statutes, shall be transferred on July 1, 1978, to the appropriation under section 20.546 of the statutes, as created by this act.

(2) **DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS.** The unencumbered balance of appropriations made to the department of industry, labor and human relations under section 20.445 (1) (a) and (m) of the statutes, for processing complaints against an agency of the state as an employer under subchapter II of chapter 111 of the statutes, as determined by the department of administration, shall be transferred on July 1, 1978, to the appropriation under section 20.547 of the statutes, as created by this act.

(3) **SPECIAL REPORTING REQUIREMENTS.** The secretaries of the departments of administration and employment relations shall, at least 10 days prior to the time of effectuating any transfer, report to the joint committee on finance on the number of positions and amount of funds to be transferred under sub. (1) (a), (b) or (c) in the event that any transfer is to be made prior to July 1, 1978.

SECTION 126m. Position decreases. (1) **DEPARTMENT OF ADMINISTRATION.** (a) *Civil service administrator.* The existing position of administrator of the division of employment relations and the 3 existing director positions for the bureaus of personnel, employment relations and human resources in the department of administration are deleted effective July 1, 1978, and shall not be part of the positions transferred to the appropriation under section 20.512 of the statutes, as created by this act.

SECTION 127. Personnel, property and records transfers. (1) **DEPARTMENT OF ADMINISTRATION.** (a) *Civil service administration.* All personnel, including personnel on leave, property and records of the department of administration related to the division of employment relations and the affirmative action program shall be transferred to the department of employment relations, as created by this act, no later than July 1, 1978. The secretary of administration and the secretary of employment relations, or their designees, shall meet and agree, as soon as practicable after the date of publication of this act, on the personnel, property and records which are to be transferred.

(b) *Personnel board appeals.* All records of the department of administration related to personnel board appeals processed as of the effective date of this act under section 111.91 (3) and subchapter II of chapter 16, 1975 stats., are transferred to the personnel commission, as created by this act. Until July 1, 1978, all records of such appeals completely processed by the personnel board after the effective date of this act shall be transferred to the personnel commission as completed. On such date all records of such appeals shall be so transferred whether or not they are completed.

(c) *Personnel board investigations.* All records of the department of administration related to personnel board investigations processed as of the effective date of this act under section 16.05 (4), 1975 stats., are transferred to the personnel board, as created by this act. Until July 1, 1978, all records of such investigations completely processed by the personnel board after the effective date of this act shall be transferred to the personnel board, as created by this act, as completed. On such date all records of such investigations shall be so transferred whether or not they are completed.

(2) DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS. All records of the department of industry, labor and human relations related to equal rights complaints against state agencies completely processed as of the effective date of this act under subchapter II of chapter 111 of the statutes are transferred to the personnel commission, as created by this act. All records of such complaints processed by the department after the effective date of this act shall be transferred to the personnel commission as completed.

SECTION 128. Position authorization. (1) The department of employment relations is authorized to fill one unclassified department secretary position, one unclassified administrator of the division of personnel position, 2 additional unclassified division administrator positions at the same salary ranges as the position of director of the bureau of human resources and the position of director of the bureau of collective bargaining in the department of administration on the day before the effective date of this act, one unclassified deputy secretary position, one unclassified executive assistant position, one classified administrative secretary II position and one classified typist receptionist position, all positions to be at full-time, for 1977-78 and 1978-79, for the purpose of administering the responsibilities placed with the department of employment relations in chapter 230 of the statutes, as renumbered and created by this act.

(2) The personnel commission is authorized to fill one classified equal rights officer position, one classified administrative secretary position and one classified typist II position, all positions to be at full-time, for 1977-78 and 1978-79, for the purpose of administering the responsibilities placed with the commission in chapter 230 of the statutes, as renumbered and created by this act.

SECTION 129. Transitional provisions. (1) An employe transferred to the department of employment relations under this act shall retain all rights and status in the department of employment relations which the employe enjoyed in the department of administration immediately prior to the transfer.

(3) The effects of the creation of section 230.08 (2) (L) and (m) and (4) of the statutes, the treatment of section 20.923 (4) (intro.) of the statutes, the repeal of section 20.923 (4) (a) 3 and 5, (b) 5m, (c) 1 and 2, (d) 2 and 8m, (e) 3, (f) 3 and (g) 1 and (4c) of the statutes and the creation of section 20.926 (1) (am) of the statutes by this act shall apply to any person holding office on February 1, 1979.

(3m) The position of administrator of the division of personnel in the department of employment relations, as created by this act, is assigned to executive salary group 4 until February 1, 1979. Until February 1, 1979, the secretary of the department of employment relations shall set the salary range of the 2 additional division administrator positions authorized under SECTION 128 (1) of this act subject to the approval of the joint committee on employment relations.

(4) All rules adopted and orders issued and all contracts entered into by the department of industry, labor and human relations which relate to administering state employe complaints under subchapter II of chapter 111, 1975 stats., shall remain in full force and effect until modified or rescinded by the personnel commission, as created by this act.

(4m) All rules of the personnel board promulgated under section 15.05 (1) (a), 1975 stats., and all orders issued and all contracts entered into by the personnel board created under section 15.105 (3), 1975 stats., shall remain in full force and effect until modified or rescinded by the personnel commission, as created by this act, if such rules, orders and contracts relate to administering personnel appeals under chapter 230 of the statutes, as renumbered and created by this act, or until modified or rescinded by the personnel board, as affected by this act, if such rules, orders and contracts relate to administering the functions of the personnel board as specified in chapter 230 of the statutes, as renumbered and created by this act.

(4q) The rules of the director of the bureau of personnel in the department of administration promulgated under section 16.03 (3), 1975 stats., shall remain in full force and effect until modified by the administrator of the division of personnel of the department of employment relations, as created by this act.

(5) Any case filed, heard or pending decision by the personnel board created under section 15.105 (3), 1975 stats., and transferred under this act to the personnel commission, as created by this act, shall be decided by the personnel commission under prior law.

(6) Any case filed against a state agency with the department of industry, labor and human relations under subchapter II of chapter 111 of the statutes prior to the effective date of this act shall be decided by the department under prior law.

(7) Notwithstanding the repeal of section 15.101 (3) of the statutes by this act, the personnel board created under section 15.101 (3), 1975 stats., shall continue to function until July 1, 1978, for the limited purpose of processing the appeals filed with it prior to the effective date of this act under section 111.91 (3) and subchapter II of chapter 16, 1975 stats.

(8) The board of regents of the university of Wisconsin-system shall submit its initial assignment of positions under section 20.923 (5) (a) of the statutes, as affected by this act, to the joint committee on employment relations for its approval no later than May 1, 1978.

SECTION 130. Name changes. (1) Wherever the term "personnel board" appears in the following section of the statutes, the term "personnel commission" is substituted: 36.09 (1) (i).

(2) Wherever the term "director of the bureau of personnel" or "director of personnel" appears in the following sections of the statutes, the term "administrator of the division of personnel in the department of employment relations" is substituted: 19.45 (11) (a), as affected by chapter 29, laws of 1977, 36.09 (1) (i) and 45.43 (7); and SECTION 1655 (43) (ba), chapter 29, laws of 1977.

(3) Wherever the term "departments", "state departments" or "departments of the state" appears in the following sections of the statutes, the term "agencies" is substituted: 16.004 (3) and (4) to (6), 16.007 (4), 16.40 (2), (4), (5), (8), (10) and (13), 16.41 (1) and (3), 16.42 (1) (intro.) and (e), as renumbered and amended by chapter 29, laws of 1977, and (2), 16.44, 16.46 (2), 16.52 (5) (b), (7) and (8), 16.76 (2), 16.865 (3) to (5) and 16.97 (1), 230.12 (3) (a), as renumbered, 230.21 (2), as renumbered, 230.24 (1), as renumbered, 230.34 (1) (c), as renumbered, and 230.35 (4) (a) (intro.) and (f), as renumbered.

(4) Wherever the term "department" or "departmental" appears in the following sections of the statutes, the term "agency" is substituted: 16.42 (1) (e), as renumbered and amended by chapter 29, laws of 1977, 16.52 (5) (b), 230.046 (3)

(d) and (5) (intro.), (b) and (d), as renumbered, 230.28 (1) (d), as renumbered, 230.36 (5), as renumbered, and 230.37 (2), as renumbered.

(5) Wherever the term "director" or "director of personnel" appears in the following sections of the statutes, the term "administrator" is substituted: 16.415 (1), 230.05 (title), (1) and (3), 230.06 (1) (f), 230.07 (1) (b) and (c), (4) and (6), 230.08 (2) (c), (7) and (8), 230.09 (2) (a), 230.12 (1) (a), as amended by chapter 44, laws of 1977, and (4) (a) and (b), as created by chapter 44, laws of 1977, 230.16 (1) (a) and (am), (2) and (11), 230.17 (1) and (3), 230.21 (1) and (2), 230.22 (1) and (4), 230.24 (1), 230.25 (2) to (4), 230.28 (1) (b) and (c), (3) and (4), 230.29, 230.31 (1) (a) and (2), 230.32 (3) to (5), 230.33 (2), 230.34 (1) (b) and (c), (2) (b), (2m), (3) and (4), 230.35 (1) (d) and (2) and 230.43 (5), all as renumbered.

(6) Wherever the term "bureau" appears in the following sections of the statutes, the term "division" is substituted: 230.16 (1) (intro.) and (b), as renumbered.

(6m) Wherever the term "bureau" appears in the following sections of the statutes, the term "department" is substituted: 230.046 (10), as renumbered.

(7) Wherever in the following section of the statutes the words "bureau of personnel" appear, the words "division of personnel in the department of employment relations" is substituted: 73.03 (2) (c).

(8) Wherever the term "administration" appears in the following sections of the statutes, the term "employment relations" is substituted: 20.865 (1) (c) 1 and 2.

(9) Wherever the term "department of administration" appears in the following sections of the statutes, the term "department of employment relations" is substituted: 111.89 (1) and 111.92 (1).

(10) Wherever in the following sections of the statutes the words "bureau of personnel" appear, the words "department of employment relations" are substituted: 13.20 (1) (b) and (2) and 70.99 (3).

(11) Wherever the term "director" appears in the following sections of the statutes, the term "secretary" is substituted: 230.04 (11) and (12), 230.046 (3) (intro.), (5) (intro.) and (c), (7) to (9) and (11), 230.12 (1) (c) 2, as repealed and recreated by chapter 44, laws of 1977, (3) (a), (ad), as created by chapter 29, laws of 1977 and (c), (5) (c), (6) and (7m), all as renumbered.

(12) Wherever the term "department head" or "heads of departments" appears in the following sections of the statutes, the term "appointing authorities" is substituted: 230.35 (1) (a) (intro.) and (4) (c) and (e), as renumbered.

SECTION 131. Cross reference changes. In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
5.05 (5)	15.04 (4)	15.04 (1)(d)
13.111	ch. 16	ch. 230
13.121 (4)	16.30 (2)	230.35 (2)
13.20 (1)(b)	16.08 (2)(f)	230.08 (2)(f)
13.21 (2)	ch. 16	ch. 230
13.50 (4)	16.11 (2)	230.15 (2)
13.92 (1)(b) 3. e	16.30 (4)	230.35 (4)
13.94 (intro.)	16.30 (4)(a)	230.35 (4)(a)
	16.30 (4)(f)	230.35 (4)(f)
13.95 (intro.)	16.30 (4)(a)	230.35 (4)(a)
	16.30 (4)(f)	230.35 (4)(f)
14.011 (intro.)	16.05 (1)	230.07 (1)
14.21 (5)(intro.)	15.04 (4)	15.04 (1)(d)
14.33	16.08 (2)(g)	230.08 (2)(g)
14.38 (4)	15.04 (4)	15.04 (1)(d)
14.38 (8)	15.04 (4)	15.04 (1)(d)
14.58 (7m)	15.04 (4)	15.04 (1)(d)
14.78 (2)(d)	15.04 (4)	15.04 (1)(d)
15.05 (5)	subs. (2) and (3)	sub. (3)
15.09 (2)	15.04 (3)	15.04 (1)(c)
15.101 (6)	16.34	16.008
15.40 (1)	15.04 (1)	15.04 (1)(a)
	15.04 (3)	15.04 (1)(c)

Senate Bill 2

15.40 (2)(e)	16.30 (4)(a)	230.35 (6)(a)
15.911 (intro.)	16.31	230.36
16.415 (2), as re-numbered	sub. (3)	sub. (2)
16.525	15.04 (4)	15.04 (1)(d)
17.025 (4)(d)	15.05 (2)	15.04 (2)
17.07 (5)	ch. 16	ch. 230
20.505 (1)(a)	16.34	16.008
20.865 (1)(b)	16.34 (5)	16.008 (5)
20.865 (1)(c)(intro.)	16.08 (2)(d) and (f)	230.08 (2)(d) and (f)
	16.086	230.12
20.865 (1)(ci)	16.086 (3)(e)	230.12 (3)(e)
20.922	ch. 16	ch. 230
20.923 (1)	16.086 (3)	230.12 (3)
20.923 (8)	15.05 (2)	15.04 (2)
21.19 (1)	15.04 (4)	15.04 (1)(d)
21.19 (7)	15.04 (4)	15.04 (1)(d)
23.10 (1)	ch. 16	ch. 230
23.10 (6)	15.04 (4)	15.04 (1)(d)
26.12 (3)	ch. 16	ch. 230
35.26 (1)	15.04 (4)	15.04 (1)(d)
36.09 (1)(e)	16.086 (3)(e)	230.12 (3)(e)
36.09 (1)(j)	16.08 (2)(d)	230.08 (2)(d)
	16.086 (3)(e)	230.12 (3)(e)
39.28 (3)	15.04 (4)	15.04 (1)(d)
39.46 (1)	15.04 (4)	15.04 (1)(d)
40.10 (4)	16.086	230.12
40.146 (6)	16.30 (2)	230.35 (2)
40.16 (3)	16.30 (2)	230.35 (2)
	16.30 (2m)	230.35 (2m)
41.07 (1)(e)	16.30 (2)	230.35 (2)
	16.30 (2m)	230.35 (2m)
41.08 (2)(a)	16.26	230.32
41.08 (3)(a)	16.26	230.32
45.365 (1)	16.086 (3)	230.12 (3)
45.50 (5)	16.26	230.32
46.03 (13)(intro.)	16.086 (3)	230.12 (3)
84.06 (3)	ch. 16	chs. 16 and 230
84.06 (4)	ch. 16	chs. 16 and 230
93.11 (8)	ch. 16	ch. 230
97.42 (4)(f)	16.30 (4)	230.35 (4)
108.14 (5)(b)	15.04 (3)	15.04 (1)(c)
111.93 (1)	16.05 (1)(e)	230.44
115.30 (4)(intro.)	15.04 (4)	15.04 (1)(d)
115.35 (5)(intro.)	15.04 (4)	15.04 (1)(d)
156.01 (8)	16.05 (1)(e)	230.44
176.06 (6)(c)	16.30 (1)(a)	230.35 (1)(a)
182.33 (4)(b)	ch. 16	ch. 230
215.02 (11)	15.04 (4)	15.04 (1)(d)
215.02 (16)(d) 1	16.30	230.35
220.02 (6)	ch. 16	ch. 230
220.14 (intro.)	15.04 (4)	15.04 (1)(d)
227.09 (1)(intro.)	16.24	230.047
230.046 (3)(intro.), as renumbered	sub. (3)	sub. (5)
230.046 (5)(intro.), as renumbered	sub. (2)	sub. (3)
230.10 (1), as re-numbered	16.086	230.12
230.12 (3)(ad)	16.05 (1)(f)	230.44
230.12 (3)(e), as re-numbered	16.08 (2)(d)	230.08 (2)(d)
230.12 (6), as re-numbered	16.30 (5)(a)	230.35 (5)(a)
230.15 (1), as re-numbered	16.22	230.28
230.25 (3), as re-numbered	16.30	230.35
230.28 (1)(d), as re-numbered	16.22	230.28
230.35 (1m)(a)(intro.), as renumbered	16.28	230.34
230.35 (2), as re-numbered	16.28 (1)	230.34 (1)
231.03 (9)	16.19	230.24
234.02 (3)	16.19	230.24
	ch. 16	ch. 230
	16.35	230.40
	ch. 16	ch. 230
	16.35	230.40
343.75	15.04 (4)	15.04 (1)(d)
426.104 (2)(intro.)	15.04 (4)	15.04 (1)(d)
499.03	ch. 16	ch. 230
	16.35	230.40
	16.27	230.33
560.02	ch. 16	ch. 230
601.14 (2)	15.04 (3)	15.04 (1)(c)
601.20 (1)	ch. 16	ch. 230
645.46 (2)	ch. 16	ch. 230

SECTION 132. Effective dates. (1) All sections of this act shall take effect on the day following publication unless another date is provided in such sections and except as further provided in this section.

(2) The creation of section 230.08 (2) (L) and (m) and (4) of the statutes, the treatment of section 20.923 (4) (intro.) of the statutes, the repeal of section 20.923 (4) (a) 3 and 5, (b) 5m, (c) 1 and 2, (d) 2 and 8m, (e) 3, (f) 3 and (g) 1 and (4c) of the statutes and the creation of SECTION 129 (3) of this act shall take effect on February 1, 1979, provided that in the period between the publication of this act and February 1, 1979, the administrator of the division of personnel in the department of employment relations, as created by this act, and 2 additional division administrator positions authorized under SECTION 128 (1) of this act in such department shall be unclassified.

(3) The repeal of section 20.505 (7) of the statutes by this act shall take effect July 1, 1978.
