

1971 Assembly Bill 475

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CHAPTER 270, Laws of 1971

AN ACT to repeal 16.105 (2) (bn), (c) (intro.), (d), (dx), (e) 1 and 2 and (3), 16.11 (1), (3) to (5) and (7), 16.13 (1) (a) to (j), 16.15, 16.17 (1), 16.19 (2) and (3), 16.20 (intro.), 16.21 (6) and (8), 16.24 (1) (b), 16.25 (1), 16.285 (3) (b), 16.29 (1) and (2) and 16.32; to renumber 16.105 (2) (c) 6, (4) (b), (5) (b) and (7), 16.106, 16.11 (2) and (6), 16.275 (1) (a) to (j), (2), (3), (4), (5), (6) (a), (am), (an), (ar), (b) and (c) and (7), 16.277, 16.285 except 16.285 (3) (b), 16.30 and 16.305; to renumber and amend

16.03, 16.04, 16.055, 16.10 (1) and (3), 16.10 (2), 16.105 (1), (1m), (2) (a), (b), (bf), (bx), (c) 1, 2, 3, 4 and 5, (e) (intro.) and (em), (4) (a), (5) (a) and (6), 16.12 (1), (2) and (3), 16.17 (2), (3) and (4), 16.18 (1) and (2), 16.19 (1), 16.20 (title) and (1) to (4), 16.21 (1) to (5) and (7), 16.23 (2) and (3), 16.24 (1) (a), (2) and (3), 16.25 (2), 16.26, 16.27 (1) to (3), 16.274, 16.275 (1) (n), 16.276, 16.28, 16.29 (3) and (4), 16.30, 16.302 and 16.303; to amend 15.07 (1) (c), 15.105 (3) (a), (b), (c) and (d), 16.003 (2), 16.004 (1), 16.01, 16.08 (2) (a), (g) and (h) and (3) (b), 16.085 (2), as renumbered, 16.09, 16.12 (2), as renumbered, 16.13 (1) (intro.), (2) and (3), 16.14, 16.22, 16.23 (1); 16.24 (1), (2) (a) and (b), (3) (a), (4) (b), (5), (6) (a) and (7) to (9), as renumbered; 16.30 (1) (a) (intro.) and 4, (b), (c), (d), (g) and (h), (2), (3) (a) and (c), (4) (b), (c) and (f) and (5), as renumbered; 16.31 (1), (3) (b) (intro.), (c) 3, 4 and 5 and (e) (intro.) and 1 and (4), 16.38 (1) (a), (b) and (e), as renumbered; 16.34 (2), (3) (a) and (b), (4) and (5), as renumbered; 16.42 (4), 16.50 (3), 20.865 (1) (c) (intro.), 20.916 (2), 20.921 (1) (b) and 20.923 (2) (e) 5; to repeal and recreate 16.02, 16.05 and subchapter V of chapter 111; and to create 13.111, 15.105 (3) (f), 16.01 (3), 16.03 (title) (1) and (3) to (6), 16.04, 16.07 (2) (a) to (f), 16.08 (3) (d) and (e) and (7) and (8), 16.084, 16.086 (1) (bf), (c) 1, (3) (c), (4), (5) (a) (intro.) and 1. c and f, 2 and 3 and (6), 16.095, 16.10, 16.12 (4) to (7), (10) and (11), 16.16, 16.17, 16.18, 16.185, 16.19, 16.24 (2) (c), 16.28 (1) (c), 16.30 (1) (m) and (3) (b) and (d), 16.325, 16.33 (7), (8) and (9), 20.865 (1) (cm) and 41.02 (12) (a) of the statutes, relating to revising the state civil service laws, revising the state employe collective bargaining laws, creating the joint committee on employment relations, granting rule-making power and making appropriations.

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

SECTION 1. 13.111 of the statutes is created to read:

**13.111 JOINT COMMITTEE ON EMPLOYMENT RELATIONS.** (1) **CREATION.** There is created a permanent joint legislative committee known as the joint committee on employment relations with such powers and authority as are provided by law and composed of the following 8 members:

- (a) Senate cochairman, joint committee on finance.
- (b) Assembly cochairman, joint committee on finance.
- (c) Assembly majority leader.
- (d) Assembly minority leader.
- (e) Senate majority leader.
- (f) Senate minority leader.
- (g) Speaker of the assembly.
- (h) President pro tempore of the senate.

(2) **DUTIES.** The joint committee on employment relations shall perform the functions assigned to it under subch. II of ch. 16 and subch. V of ch. 111.

SECTION 2. 15.07 (1) (c) of the statutes is amended to read:

15.07 (1) (c) Fixed terms of members of boards, except the personnel board and the state employes merit award board where terms

~~shall expire on July 1, and Milwaukee teachers retirement board where terms shall begin after the regular annual meeting on the last Saturday in September, shall expire on May 1 and shall, if the term is for an even number of years, expire in an odd-numbered year.~~

SECTION 3. 15.105 (3) (a), (b), (c) and (d) of the statutes are amended to read:

15.105 (3) (a) They shall ~~have~~ possess a recognized ~~sympathy appreciation~~ for and knowledge of the application of merit principles in public employment.

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

(c) No member may hold any ~~full-time salaried office under this other position in state employment.~~

(d) No member, when appointed or for 3 years immediately prior to the date of appointment, may have been a member of a local, state or national committee of a political party, have been an officer or member of a committee in any partisan political club or 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.

SECTION 4. 15.105 (3) (f) of the statutes is created to read:

15.105 (3) (f) Each member of the board shall be a United States citizen and shall have been a resident of this state for at least 3 years.

SECTION 5. 16.003 (2) of the statutes is amended to read:

16.003 (2) 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 ~~from the top 3 names certified to the secretary under the classified service.~~

SECTION 6. 16.004 (1) of the statutes is amended to read:

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

SECTION 7. 16.01 of the statutes is amended to read:

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

(2) It is the policy of the state ~~that, in the classified service, such staffs shall and can best be provided by personnel management to maintain a strong coordinated personnel management program and to assure that positions in the classified service are filled through~~ methods which apply the merit principle, with adequate civil service safeguards. ~~To this end, these ends the bureau of personnel with advice and quasi-judicial assistance by the personnel board and the department of administration, its officers and~~

employees, shall develop, ~~promote~~ improve and protect a state-wide personnel management program which assures that the state hires the best qualified persons available and bases the treatment of its employees upon the relative value of each employee's services and his demonstrated competence and fitness.

SECTION 8. 16.01 (3) of the statutes is created to read:

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

SECTION 9. 16.02 of the statutes is repealed and recreated to read:

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

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

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

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

(4) "Board" means the personnel board.

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

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

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

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

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

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

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

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

SECTION 10. 16.03 of the statutes, as created by chapter 125, laws of 1971, is renumbered 16.03 (2) and amended to read:

16.03 (2) The director may delegate, in writing, any of his ministerial functions set forth in ~~ss. 16.01 to 16.32~~ this subchapter to a department head, within prescribed standards when he finds such agency has personnel management capabilities to perform such functions effectively and has indicated its approval and willingness to accept such responsibility by written agreement. Whenever the director determines that any department is not performing such dele-

gated function within prescribed standards, he shall forthwith withdraw such delegation and assume responsibility for such function. Any delegatory action taken hereunder by any department head may be appealed to the personnel board under s. 16.05.

SECTION 11. 16.03 (title), (1) and(3) to (6) of the statutes are created to read:

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

(3) The director may utilize the services of technical or specialized personnel to assist him in implementing and maintaining a sound personnel management program. These services may be obtained from persons within or without state service.

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

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

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

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

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

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

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

SECTION 12. 16.04 of the statutes is renumbered 16.12 (9) and amended to read:

16.12 (9) The officials in control of municipal and county buildings, upon requisition by the director, shall furnish ~~convenient offices and adequate rooms and building services for the administration of examinations ; and necessary furniture, heat and light for the accommodation of local examiners.~~

SECTION 13. 16.04 of the statutes is created to read:

**16.04 DUTIES OF APPOINTING AUTHORITIES.** (1) Each appointing authority shall:

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

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

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

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

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

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

SECTION 14. 16.05 of the statutes is repealed and recreated to read:

**16.05 DUTIES OF PERSONNEL BOARD.** (1) The board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 15. 16.055 of the statutes is renumbered 16.295 and amended to read:

**16.295 (title) PERSONNEL ASSISTANCE TO LOCAL UNITS OF GOVERNMENT.** ~~The~~ To further develop and maintain sound personnel management practices at the local government level, the director of personnel shall, when requested by the proper authorities, ~~render~~ provide service ~~in accordance with this subchapter to counties, cities and villages, and personnel management consultative assistance to towns, villages, cities, counties, boards of education or other local public bodies, boards, commissions, departments or agencies, and shall charge the cost of such service to the city, village or county for which it is performed them.~~

SECTION 16. 16.07 (2) (a) to (f) of the statutes are created to read:

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

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

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

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

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

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

SECTION 17. 16.08 (2) (a), (g) and (h) and (3) (b), as affected by chapter 40, laws of 1971, of the statutes are amended to read:

16.08 (2) (a) All state officers elected by the people.

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

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

(3) (b) Employes holding permanent or sessional classified service positions in the ~~joint legislative council, legislative reference bureau or revisor of statutes bureau branch~~ shall have the same legal status as employes holding permanent classified service positions in the administrative branch, ~~but for purposes of s. 41.02 (6) (b), such sessional employes shall be deemed employed by the legislative service agency less than 600 hours each year.~~

SECTION 18. 16.08 (3) (d) and (e) and (7) and (8) of the statutes are created to read:

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

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

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

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

SECTION 19. 16.084 of the statutes is created to read:

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

(2) The compensation plan in effect on the effective date of this section (1971), or at the time that a collective bargaining unit is certified, whichever is later, shall constitute the compensation plan for employes in said certified unit until a collective bargaining agreement becomes effective for that unit.

SECTION 20. 16.086 (1) (bf), (c) 1, (3) (c), (4), (5) (a) (intro.) and 1. c and f, 2 and 3 and (6) of the statutes are created to read:

16.086 (1) (bf) Legislative action. Provisions of the compensation plan that the joint committee on employment relations approves which require legislative action for implementation, such as changes in fringe benefits and any proposed amendments, deletions or additions to existing law, shall be introduced by the committee in companion bills, to be put on the calendar. Such bills shall not be subject to ss. 13.10 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may, however, submit suitable portions of the bills to appropriate legislative committees for advisory recommendations on the proposed changes. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the committee's concurrence with the matters under consideration and which recommends the passage of such legislation without change. It is the intent of the legislature to make this process consistent with that set forth under s. 111.92.

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

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

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

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

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

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

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

pay increase, and frequency of adjustments shall be provided for in the applicable pay schedule.

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

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

SECTION 21. 16.09 of the statutes is amended to read:

**16.09 LEGISLATIVE COMPENSATION COUNCIL.** The legislative compensation council shall biennially review the salaries established under s. 20.923 (2) for members of the legislature, and shall submit its recommendations, in writing, to the director of personnel and the personnel board for appropriate action under s. 16.105 (2) (a), (3) and (4). ~~Such recommendations shall be submitted to the director and the board no later than September 1 of the even-numbered year. The director shall review the recommendations to ascertain that the council's methodology and analysis were consistent with the applicable factors identified in s. 16.086 (3) (a), and shall then conduct a public hearing on the recommendations before the board. After receipt of advice and counsel from the board that the recommendations are consistent with the above factors, he shall submit the recommendations to the joint committee on employment relations for appropriate action under s. 16.086 (3) (b).~~

SECTION 22. 16.095 of the statutes is created to read:

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

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

SECTION 23. 16.10 (1) and (3) of the statutes are renumbered 16.11 (1) and (3) and amended to read:

**16.11 (title) APPOINTMENTS, PROMOTIONS, CHANGES IN CLASSIFIED SERVICE.** (1) Appointments to, and promotions in the classified service, shall be made only according to merit and fitness, which, ~~except as otherwise provided by law~~ shall be ascertained so far as practicable by examinations which ~~so far as practicable, shall be~~ competitive examination. When the state becomes responsible for a function previously administered by another governmental agency, a quasi-public, or a private enterprise, the

director shall determine appropriate eligibility, pay, employe benefits and status identified in ss. 16.22 and 16.30.

(3) No person shall be appointed, transferred, removed, reinstated, ~~restored,~~ promoted or reduced as ~~an officer, clerk, employe or laborer~~ in the classified service in any manner or by any means, ~~other than those prescribed in ss. 16.01 to 16.32~~ except as provided in this subchapter.

SECTION 24. 16.10 (2) of the statutes is renumbered 16.12 (8) and amended to read:

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

SECTION 25. 16.10 of the statutes is created to read:

**16.10 RECRUITMENT.** To attract the best qualified applicants to the classified service, recruitment prior to each examination shall be on the broadest base consistent with sound personnel management practice with due consideration given to the provisions of s. 16.15. The director shall determine the most appropriate source of recruitment based on the availability of qualified applicants and the needs of the service.

SECTION 26. 16.105 (1) and (1m) of the statutes are renumbered 16.07 (1) and (2) (intro.), respectively, and amended to read:

**16.07 (title) CLASSIFICATION.** (1) The director, ~~with advice and approval of the personnel board,~~ shall ascertain and record the duties and responsibilities and authorities of, and establish grades and classes grade levels and classifications for, all positions ~~to which this chapter applies in the classified service~~ subject to the approval of the board. He shall use job evaluation methods which in his judgment are appropriate to the class or occupational groups. Each class classification so established shall include positions ~~requiring duties~~ which are substantially similar in respect to the authority, responsibility; and character nature of the work required ~~in the performance thereof and shall be designated by a title indicative of such duties.~~ Each class ~~shall be so defined that the same requirements as to education, experience, capacity, knowledge and skill are demanded of incumbents for the proper performance of their duties, that the same tests of fitness may be used in choosing qualified appointees; and that the same schedule of pay can be made to apply with equity under like working conditions. As far as practicable the natural or probable lines of promotion to and from the class of position shall be designated or indicated.~~ In addition, each class shall be so defined that the same requirements as to education, experience, capacity, knowledge and skill are demanded of incumbents for the proper performance of their duties, that the same tests of fitness may be used in choosing qualified appointees; and that the same schedule of pay can be made to apply with equity under like working conditions. As far as practicable the natural or probable lines of promotion to and from the class of position shall be designated or indicated. ~~The titles of positions so established shall be used in all reports and pay rolls and in all estimates requesting the appropriation of money for personal services.~~

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

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

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

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

~~(2) (intro.) After consultation with the appointing authorities, the director shall allocate each position in the classified service to an appropriate class in the classification plan on the basis of its duties, authority and responsibilities or other factors recognized in the job evaluation process. He shall likewise reclassify or reallocate positions from class to class on the same basis whenever he finds such action to be warranted. If a position is reallocated to a class having a lower salary range maximum than the incumbent's current rate of pay, the salary of the incumbent while employed in such position shall be adjusted in accordance with rules of the board so that such rate will be within the proper salary range within the period specified by such rules. An establishment list shall be maintained by the director for each employing unit showing by classes the types and number of positions that have been established and maintained. The board after considering the recommendation of the director shall provide in its rules the procedure for establishing, discontinuing and abolishing positions.~~

SECTION 27. 16.105 (2) (a), (b), (bf), as affected by chapter 125, laws of 1971, (bx) and (c) 1, 2, as affected by chapter 55, laws of 1971, 3, 4 and 5, (e) (intro.), (4) (a) and (5) (a), as affected by chapter 125, laws of 1971, of the statutes are renumbered 16.086 (3) (a), (1) (a), (am) and (b), (5) (a) 1 (intro.), a, b, d and e, (b), (3) (b) and (1) (c) 2, respectively, and amended to read:

16.086 (title) COMPENSATION. (1) (a) General provisions. ~~Each such range shall provide for a minimum and a maximum rate of pay, and for intermediate salary steps to govern salary increases for meritorious service. The director shall not certify the salary of any person holding any such position or employment, unless such salary is at the minimum or maximum of such range, or is at an intermediate step within such range, or is increased within the authorized salary range in multiples of \$1; but this provision shall not prevent the payment of any added pay for added hours of work under rules of the board, which shall be considered separately from the basic salary rate of the employe, nor shall it prevent payment of salary rates above the maximum as provided in sub. (1m). The compensation plan is the listing of the dollar values of the pay rates and ranges and the within range pay steps of the separate pay schedules to which the classes and grade levels for positions in the classified service established under the classification plan are assigned. In addition, the compensation plan may, when applicable, include provisions for supplemental pay and pay adjustments, and other provisions required to implement the plan or amendments thereto. Provisions for administration of the compensation plan and salary transactions shall be provided in the rules of the director.~~

(am) Length of service pay. As a reward for long and faithful service, department heads shall grant length of service pay to eligible employes in the classified service, except employes paid on a prevailing rate and employes on part-time (which is less than half time, on a daily, weekly or monthly basis), short-term, project and student employments. Such length of service pay shall first be paid in December 1969 to employes eligible therefor, as determined under

rules of the personnel board by rule, and shall be paid in December of each year on a date determined by the director in addition to other compensation to employes eligible therefor, except that for eligible employes retiring, terminating or dying before the authorized December date for payment, the director may authorize earlier payment dates. Such length of service pay shall be based upon length of continuous state service, as determined retroactively under s. ~~16.275~~ 16.30, as follows: \$50 for at least 5 years but less than 10 years of service; \$100 for at least 10 but less than 15 years of service; \$150 for at least 15 but less than 20 years of service; \$200 for at least 20 but less than 25 years of service; and \$250 for 25 or more years of service.

~~(b) Separate schedules. The director, with the approval of the joint committee on finance, or the board on government operations when the legislature is not in session, may establish a separate salary schedule for teachers reflecting length of service and professional training and otherwise having the same general provisions prevalent in schedules used in the public school system. The amount of individual salary adjustments and the frequency of adjustments shall be provided for in the teachers' salary schedule. The total amount to be budgeted and used for salary increases, however, shall be limited to an amount consistent with par. (e). The director may likewise establish a separate salary schedule for persons licensed to practice medicine reflecting professional training and experience in the field of medicine and recognizing specialization in this field. The director may likewise establish a separate pay plan and salary schedule for the legal staff of the department of justice. In like manner the director may establish a separate salary schedule for other persons eligible to practice law reflecting experience, expertise and specialization in the legal field. The several separate pay schedules may incorporate different pay structures and wage and salary administration features. Each schedule shall provide for pay ranges or pay rates and applicable methods and frequency of within range pay adjustments based on such considerations as competitive practice, appropriate principles and techniques of wage and salary administration and determination and the needs of the service. Not limited by enumeration, such considerations for establishment of pay rates and ranges and applicable within range pay adjustments may include provisions prevalent in schedules used in other public and private employment, professional or advanced training, recognized expertise, or any other criteria which assures state employe compensation is set on an equitable basis.~~

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

(3) COMPENSATION PLAN; ESTABLISHMENT AND REVISION.

(a) ~~Submission to the board. The director shall, after a public hearing and with the advice and approval of the personnel board,~~

~~establish and maintain salary schedules and ranges for all positions and employments in the state service to which this chapter applies submit to the board his proposal for any required changes in the compensation plan which may include across the board or equity pay adjustments for positions in the classified service. The proposal shall be based upon experience in recruiting for the service, data collected as to rates of pay for comparable work in other public services and in commercial and industrial establishments, recommendations of state departments and any special studies carried on as to the need for any changes in the compensation plan to cover each year of the biennium. The proposal shall also take proper account of prevailing pay rates, costs and standards of living, and the state's employment policies.~~

~~(b) Public hearing on the proposal; adoption of plan. The standard salary ranges submitted by the director pursuant to subs. (2) and (3). After receipt of advice and counsel from the board, the director shall submit the proposal for any required changes in the compensation plan to the joint committee on employment relations. The joint committee on employment relations shall hold a public hearing on the recommendations submitted by the director. The proposal, as may be modified by the joint committee on finance, employment relations together with the unchanged provisions of the current compensation plan shall for the ensuing fiscal year or until a new or modified plan is adopted pursuant to this subsection, constitute the state's compensation plan for positions in the classified service; provided, that the personnel board, with the approval of the director and board on government operations, while the legislature is not in session, may change the compensation schedule for any grade and class when such action is made desirable by changing employment and economic conditions. The authority of the joint committee on finance and the board on government operations shall be limited to the revising of the standard salary ranges and the reassignment of classes to salary ranges and approving features required to implement and administer such revisions and reassignments. Except as otherwise provided by law, the joint committee on finance and the board on government operations shall not be empowered under this section to establish longevity pay plans or to grant general salary adjustments to all employees. Any modification of the plan under this subsection director's proposed changes in the compensation plan by the joint committee on employment relations may be disapproved by the governor within 10 calendar days. A vote of 9-6 members of the joint committee on finance, or 5 members of the board on government operations employment relations is required to set aside any such disapproval of the governor.~~

~~(5) (a) 1. (intro.) "Merit increases." It is declared to be legislative intent that merit Pay increases within pay ranges shall be allowed each year on the date prescribed under sub. (8), in recognition of meritorious service to employes whose class of position is allocated to a pay schedule for which all or part of pay advancement is based on meritorious service, by each department head for his department, in accordance with this section and rules of the director. Increases shall be granted only on the basis of meritorious service and not be granted for reasons of longevity, employe need, level of salary range or for other such similar reasons. The personnel board director shall establish rules for assuring that state departments follow procedures which promote this end, including therein the use of performance standards, evaluation reports and such other measurements as they may require. For the 1971-72 and 1972-73 fiscal years only, the provisions of this paragraph requiring merit increases to be granted only on the basis of meritorious service are waived to the extent necessary to permit implementation of the joint committee on finance's recommendations that such increases be granted on a basis other than merit. The provisions of the preceding sentence shall be retroactive to the July 1 pay period, and any funds required to implement these provisions~~

~~which are in excess of the 80% of the funds budgeted may be provided from the appropriation under s. 20.865 (1) (e) employe work planning and progress evaluations and such other measurements as may be required.~~

a. ~~The total of monthly amount appropriated for all such merit increases for and distributed during any fiscal year shall not exceed the amount budgeted pursuant to par. (e) 4% of the applicable gross payroll for the month of May of the preceding fiscal year but if such 4% is not an exact multiple of \$1, it shall be increased to the next higher \$1 multiple. The term "applicable gross payroll" shall be defined in the rules of the director.~~

b. ~~No appointing officer shall award an employe a merit increase exceeding 2 intermediate steps during the fiscal year. Merit Subject to the maximum of the pay range, distribution of merit increases shall be in half-step amounts or full-step amounts and \$1 multiples for increases greater than one step or that portion thereof which would increase an employe's pay to the maximum of the salary range to which his classification level is assigned. In no case shall an annual merit increase of exceed 2 intermediate full steps shall be granted by an appointing officer only for exceptionally meritorious service.~~

d. ~~An appointing officer authority may award merit increases amounting to as much as 2 intermediate steps to not more than 10% of the eligible employes in his department during the fiscal year, based on the total number of eligible employes on July 1. In computing the 10% limitation, any resulting fraction shall be rounded to the next higher unit whole number.~~

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

(b) ~~Budget for pay increases. Each department head shall, in submitting his budget to the governor or governor-elect and to the joint committee on finance, request an amount for merit authorized pay increases. Such amount shall be equal to the sum of in accordance with the compensation plan and the rules and statutes relating thereto.~~

SECTION 28. 16.105 (2) (c) 6 and (7) of the statutes are renumbered 16.086 (5) (a) 1, g and (8).

SECTION 29. 16.105 (2) (bn), (c) (intro.), (d), (dx), (e) 1 and 2 and (3) of the statutes are repealed.

SECTION 30. 16.105 (2) (em) of the statutes is renumbered 16.086 (1) (an) and amended to read:

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

SECTION 31. 16.105 (4) (b) and (5) (b) of the statutes are renumbered 16.086 (3) (d) and (1) (c) 3, respectively.

SECTION 32. 16.105 (6) of the statutes is renumbered 16.086 (7) and amended to read:

16.086 (7) Consistent with applicable provisions of sub. (2) (5) it is the declared public policy that salaries pay rates of employes in the classified service ~~as defined in s. 16.08 (3),~~

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

SECTION 33. 16.106 of the statutes is renumbered 16.085 and 16.085 (2), as renumbered, is amended to read:

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

SECTION 34. 16.11 (1), (3) to (5) and (7) of the statutes are repealed.

SECTION 35. 16.11 (2) and (6) of the statutes are renumbered 16.12 (2) and (3), respectively, and 16.12 (2), as renumbered, is amended to read:

16.12 (2) ~~The~~ Competitive examinations shall be free and open to all applicants who are citizens of the United States and who have been residents of this state for one year prior to their application and who have fulfilled the preliminary requirements stated in s. 16.12, and in the examination announcement. To assure that all state residents have a fair opportunity to compete, examinations shall be held at such times and places as, in the judgment of the director, most nearly meet the convenience of applicants and needs of the service. ~~To insure competitive equality between the blind and persons not so handicapped in connection with the taking of civil service examinations, the applicant may request from the department of administration the furnishing of an amanuensis or a reader when necessary, and the furnishing of a place to take such examination, or such other similar prerequisites to insure equality in such examination.~~ Upon certification of the appointing authority of any state department that if a critical need for employes in a specific classification classifications or positions exists, the director may open competitive examinations to residents of other states who have fulfilled the preliminary requirements stated in s. 16.12. ~~In a like manner the director may open examinations to qualified professional and technical applicants without regard to citizenship.~~

SECTION 36. 16.12 (1), (2) and (3) of the statutes are renumbered 16.12 (1) (intro.), (a) and (b), respectively, and amended to read:

**16.12 (title) APPLICATIONS AND EXAMINATIONS.** (1) (intro.) The director shall require persons applying for admission to any examination ~~provided for under ss. - 16.01 to 16.32, under this subchapter or under the rules of the board, director to file in the office of the department of administration an application with the bureau a reasonable time prior to the proposed examination, a formal application.~~

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

(b) ~~Blank The bureau shall furnish application forms for such applications shall be furnished by the department of administration without charge to all persons requesting the same them.~~

SECTION 37. 16.12 (4) to (7), (10) and (11) of the statutes are created to read:

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

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

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

(7) A preference shall be given to any qualifying veteran. A preference means that whenever a veteran gains eligibility on any competitive employment register 5 points shall be added to his grade; and if such veteran has a disability which is directly traceable to war service, he shall be accorded another 5 points. "Veteran" as used in this subsection means any person who served on active duty under honorable conditions in the U.S. armed forces who was entitled to receive either the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, or the Viet Nam service medal established by executive order 11231 on July 8, 1965, or for at least one day during a war period, as defined in s. 45.35 (5) (a) to (g) or under section 1 of executive order 10957 dated August 10, 1961.

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

(11) Records of examinations, including a transcript or recorded tape of oral examinations, given under this subchapter

shall be retained for at least one year. Inspection of such records shall be regulated by rules of the director.

SECTION 38. 16.13 (1) (intro.) of the statutes is amended to read:

**16.13 (title) APPLICANTS AND ELIGIBLES MAY BE BARRED; BONDS MAY BE REQUIRED.** (1) (intro.) The director ~~may refuse to examine the applicant, or after examination to certify an eligible; shall provide by rule, the conditions, not otherwise provided by law, under which an applicant may be refused examination or reexamination, or an eligible refused certification. These conditions shall be based on sufficient reason and shall reflect sound technical personnel management practices and those standards of conduct, deportment and character necessary and demanded to the orderly, efficient and just operation of the state service.~~

SECTION 39. 16.13 (1) (a) to (j) of the statutes are repealed.

SECTION 40. 16.13 (2) and (3) of the statutes are amended to read:

16.13 (2) Whenever the director refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, then said director, if requested by the person so rejected within 10 days of the date of receipt of such notice of rejection, shall give to him a full and explicit statement of the exact cause of such refusal to examine or to certify, as the case may be. ~~Appeal may be had from the decision of the director in accordance with s. 16.05 (1) provided notice of such appeal is received by the director not more than 10 days after the date of such statement.~~ Upon request of an applicant or an eligible for a civil service position who is blind, the ~~services to the blind, division of public assistance,~~ department of health and social services, shall obtain from such ~~the~~ director a detailed description of all duties entailed by such position and investigate the necessity for eyesight in the fulfillment of the duties of any position, and shall determine and report its findings to the director, as to the physical ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the physical qualifications of any applicant, or eligible, so examined.

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

SECTION 41. 16.14 of the statutes is amended to read:

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

SECTION 42. 16.15 of the statutes is repealed.

SECTION 43. 16.16 of the statutes is created to read:

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

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

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

SECTION 44. 16.17 (1) of the statutes is repealed.

SECTION 45. 16.17 (2) and (3) of the statutes are renumbered 16.20 (3) and (4), respectively, and amended to read:

16.20 (3) The term of eligibility of ~~applicants~~ on original entrance and promotional lists shall be registers is 6 months; ~~but such term may be extended and thereafter the register expires but may be reactivated by the director for up to 3 years from the date of the establishment of the register. The eligibility of individuals on for reinstatement lists may be extended in like manner. But such eligibility may not be extended for a period of more than or restoration is 3 years except as provided in ss. 16.22 and 16.28.~~

(4) Appointments ~~shall be made from the eligible list most nearly appropriate, and a~~ (a) ~~The director may establish a new and separate list shall be created register for a stated specific position or class only when in his judgment there is no appropriate list existing register from which appointments may be made.~~

(b) ~~The director with the advice and approval of the board may establish separate eligible lists in various localities registers for various geographic areas of the state if the needs of the service so require, provided that the director has given proper publicity to has been given of the intent of the department of administration to establish such lists. For legislative positions, the department of administration shall certify the names of all who make a passing grade to the appointing authorities. Insofar as possible appointments to legislative positions shall be made according to senatorial districts and the order in which names appear on the eligible list. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, or assigned to perform the duties of, any position subject to a competitive examination, unless he has previously passed an open competition examination equivalent to that required for such position registers.~~

SECTION 46. 16.17 (4) of the statutes is renumbered 16.11 (2) and amended to read:

16.11 (2) In case of a vacancy in a position in the classified service where when peculiar and exceptional qualifications of a scientific, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special ease 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 board upon recommendation of the director may suspend the statute requiring compe-

~~tition in such case, but no suspension shall be general in its application to such place, and all such cases of suspension shall be reported in the biennial report of the department of administration with the reasons for the same waive competition requirements except when the vacancy is to be filled by promotion. Any actions taken under this subsection shall be reported to the board.~~

SECTION 47. 16.17 of the statutes is created to read:

**16.17 UNSKILLED LABOR AND CRITICAL RECRUITMENT SELECTION.** (1) The director may, to meet the needs of the service, establish separate recruitment, examination and certification procedures for filling positions in unskilled labor and service classes.

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

SECTION 48. 16.18 (1) and (2) of the statutes are renumbered 16.20 (1) and (2) and amended to read:

**16.20 (title) CERTIFICATION, APPOINTMENTS AND REGISTERS.**

(1) Appointing ~~officers~~ authorities shall give written notice to the ~~department of administration~~ director of the existence of any vacancy to be filled in any office or employment position in the classified service ~~under ss. 16.01 to 16.32,~~ and the director shall certify pursuant to this subchapter and the rules of the director, from the register of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, the 3 names at the head thereof, which have not been certified 3 times. ~~Whenever an employing officer notifies the department of administration of a vacancy to be filled he shall indicate whether he wishes certification to be made from an appropriate reemployment or original employment register for the grade or class. Whenever eligibles are certified, they must be those candidates who have been graded highest in an examination held in pursuance of ss. 16.01 to 16.32, and the rules made in accordance therewith, except that there shall be no restriction as to age in the case of veterans and except that other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States in accordance with the dates specified in s. 45.35 (5) or veterans who served under section 1 of executive order 10957, dated August 10, 1961, or had service entitling them 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. The employing officer shall not reject because of age any eligible veteran, 55 years of age or less, whose name has been certified to him. Preference is defined to mean that whenever an honorably discharged veteran competes in any examination conducted by the bureau 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. In every case after a name has been certified 3 times, it may be dropped from the list by the director, but certificates for temporary appointment shall not be counted as one of such certificates.~~

(2) ~~The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates whose name is~~ Unless otherwise provided in this subchapter and rules pursuant thereto, appointments shall be made by appointing authorities to all positions in the classified service from among those certified in the manner above set forth, to fill such vacancy unless objection is made, and sustained to them in accordance with sub.

(1). Appointments shall be made within 60 days after the date of certification unless an exception is made by the director, to one or more of the persons certified for any of the reasons stated in s. 16.13; however, this section may be altered by the director when the office or employment comes within those where by s. 16.20 competitive examinations are not required. If an appointing authority does not make an appointment within 60 days after certification he shall immediately report in writing to the director the reasons therefor. If the director determines that the failure to make an appointment is not justified under the merit system, he shall issue an order directing that an appointment be made.

SECTION 49. 16.18 and 16.185 of the statutes are created to read:

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

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

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

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

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

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

SECTION 50. 16.19 (1) of the statutes is renumbered 16.15 and amended to read:

16.15 (title) PROMOTION. Vacancies When, in the judgment of the director, the group of applicants best able to meet the requirements for vacancies in positions in the classified service shall be filled, so far as practicable, by promotion from among are available within the classified service, such vacancies shall be filled by competition limited to persons holding positions in the classified service, under rules made and enforced by the personnel board. Promotions shall be based upon merit and fitness to be ascertained by examinations, to be provided by the director, and upon the superior qualifications of the person promoted as shown by his previous service, due weight being given to seniority and experience who are not employed under s. 16.21.

SECTION 51. 16.19 (2) and (3) of the statutes are repealed.

SECTION 52. 16.19 of the statutes is created to read:

**16.19 CAREER EXECUTIVE SELECTION.** The director may by rule develop a career executive program that emphasizes excellence in administrative skills in order to provide state departments with a pool of highly qualified executive candidates, to provide outstanding administrative employes a broad opportunity for career advancement and to provide for the mobility of such employes among the departments and units of state government for the most advantageous

use of their managerial and administrative skills. To accomplish the purpose of this program, the director may provide policies and standards for recruitment, examination, probation, employment register control, certification, classification, salary administration, transfer, promotion and reemployment separate from procedures established for other employment. The director shall determine the positions which may be filled from career executive employment registers.

SECTION 53. 16.20 (intro.) of the statutes is repealed.

SECTION 54. 16.20 (title), (1) and (2) of the statutes are renumbered 16.21 (title), (2) and (3), respectively, and amended to read:

**16.21 (title) LIMITED TERM APPOINTMENTS.** ~~Positions in the classified service may be filled without competition only as follows:~~

(2) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify to the appointing officer authority, upon requisition by the latter, a list of persons eligible for appointment after a competitive examination from an appropriate employment register, the appointing officer authority, may nominate a person to the director for noncompetitive examination, and if . . . If such nominee is certified by the said director as qualified after such noncompetitive examination, he may be appointed provisionally to fill such vacancy only until a selection and an appointment can be made after competitive examination from a register established after announcement of competition for the position, but no such provisional appointment shall be continued for more than ~~30~~ 45 working days and successive after the date of certification from such register. Successive appointments shall not be made.

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

SECTION 55. 16.20 (3) and (4) of the statutes are renumbered 16.21 (1) and (4) and amended to read:

16.21 (1) ~~Employment specified in s. 16.105 (2) (bn) shall be designated as a~~ The director may provide by rule for selection and appointment for limited term appointments which shall include but not be limited to part-time (which is less than half-time on a daily, weekly or monthly basis), short-term, project and student appointments. Provisional and emergency appointments shall be deemed short-term appointments and be subject to subs. (2) and (3).

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

SECTION 56. 16.21 (1) to (5) and (7) of the statutes, as affected by chapter 100, laws of 1971, are renumbered 16.33 (1) to (6) and amended to read:

**16.33 (title) TRAINING PROGRAMS. (1) DECLARATION OF POLICY.** In order to promote efficiency and economy in the operation of the state government, to provide means for the development of maximum

proficiency by employes thereof, to establish and maintain the highest standards of performance in the transaction of the state's business, and to install and utilize effectively the best modern practices and techniques which have been developed, tested and proved, it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. The ~~objectives~~ objective of these programs ~~shall be~~ is to develop skills, knowledge ~~and~~ → and abilities which will best qualify state employes for effective performance of their official duties, and to retain skilled and efficient state employes in order to continually improve the quality of public service. ~~The department of administration in cooperation with appointing authorities shall coordinate state sponsored training programs.~~

(2) TRAINING PROGRAMS. The director of ~~personnel~~, pursuant to sub. (3) and ~~under rules to be established by the personnel board,~~ may authorize appointing authorities to:

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

(b) Provide specialized training to qualified persons through educational stipends in lieu of pay, but in no event shall a monthly stipend exceed the minimum salary pay of the position for which training is undertaken.

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

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

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

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

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

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

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

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

(4) GIFTS AND GRANTS. Nothing in this section shall nullify the acceptance or the special conditions of training programs financed by gifts, grants, bequests and devises from individuals,

partnerships, associations or corporations and all subventions from the United States, unless pursuant to ~~s. 16.54 or 20.907~~, such financing has been refused by the state under s. 16.54 or 20.907.

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

(6) COOPERATE FOR SCHOLARSHIP LOANS. To stimulate the interest of qualified students of exceptional merit in government career service, the director of ~~personnel~~ shall cooperate with the board of regents of the university of Wisconsin system in providing opportunities for recipients of public service scholarship loans to secure employment under the internship plan.

SECTION 57. 16.21 (6) and (8) of the statutes are repealed.

SECTION 58. 16.22 of the statutes is amended to read:

**16.22 (title) PROBATIONARY PERIOD.** (1) (a) All original and all promotional appointments to permanent, sessional and seasonal positions in the classified service shall be for a probationary period of 6 months except as herein provided, but dismissal the director, in an original appointment, at the request of the appointing authority and in accordance with the rules related thereto may extend any such period for a maximum of 3 additional months. Dismissal may be made at any time during such period periods. A promotion or other change in job status within a department shall not affect the permanent status and rights previously acquired by an employe within such department. An employe demoted under s. 16.24 ~~(1) (a) shall not retain the permanent status previously acquired.~~ Upon such dismissal, the appointing authority shall forthwith report to the director and to the employe removed, his action and the reason therefor. ~~No more than 3 employes shall be removed successively from the same position during their probationary periods without the approval of the director.~~ The director may remove an employe during his probationary period if he finds, after giving notice and an opportunity to be heard, that such employe was appointed as a result of fraud or error.

(b) The director may authorize a longer probationary period not to exceed 2 years for any classification allocated to range 12 and above within the schedules for which increases are based solely on merit and for teachers if the duties of the position are such that a 6-month period does not administrative, technical or professional position, in order to provide the employe with appointing authority assurance that the employe has had adequate exposure to the various responsibilities which are a part of the position or classification.

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

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

(2) Fifteen days prior to the expiration of an employe's probationary period, the director shall notify the appointing offi-

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

(3) If an employe is removed from his position during ~~or at~~ the end of his probationary period, and the director determines that he is suitable for appointment to another position, his name may be restored to the list from which it was certified. ~~If any such employe was a regular employe in another position in the classified service immediately prior to his appointment, his name shall be placed on the reemployment list for the class of position in which he was a regular employe.~~

(4) ~~An employe reinstated to a department, other than the one from which he earned reinstatement rights, A person reinstated in an employing unit other than one in which he previously served in permanent status in the class in which he is being reinstated, or an employe transferred who transfers from one department employing unit to another ; or an employe who moves to a different employing unit in conjunction with a voluntary demotion, may be required by the appointing authority to serve a probationary period. However, completion of such probationary period shall not make the employe eligible for a salary increase under s. 16.105-(2)-(d) Provisions for the duration of such probationary period shall be provided in the rules of the director.~~

(5) An employe whose position is classified as ~~a trainee~~ "trainee" shall be on a probationary period for the duration of the training program and may be separated during that period without the right of appeal, at the discretion of the appointing authority. Upon qualifying for the objective classification, he shall serve a probationary period as specified in sub. (1).

SECTION 59. 16.23 (1) of the statutes is amended to read:

16.23 (title) TRANSFERS. (1) — No A transfer or reinstatement shall may be made from a one position in one grade and class to a position in another grade and class unless the same be to another only if specifically authorized by the director. Section 16.19 and the rules adopted thereunder shall be read with this section and the rules adopted hereunder, and where the transfer involves a promotion the requirements of the promotion rule and regulation shall be observed.

SECTION 60. 16.23 (2) and (3) of the statutes are renumbered 16.25 (1) and (2) and amended to read:

16.25 (title) RESTORATION OF EMPLOYMENT AND REINSTATEMENT PRIVILEGES. (1) Any person who has held a position by and obtained permanent appointment status in a class under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part but owing to reasons of economy or otherwise ; may be reinstated within one year, and in the case of legislative employes within 2 years, from the date of such separation to positions in the same or similar grade or class in the state service; provided, that for the original entrance to the position proposed to be filled by such reinstatement there is not required in the opinion of the director examination involving assential tests or qualifications different from or higher than those involved in the examination for the original entrance to the position formerly held by the person proposed to be reinstated shall be granted the following considerations for a 3-year period from the date of such separation:

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

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

~~(2) The board after consideration of the recommendation of the director may also provide in its rules for the reinstatement of persons who have served meritoriously less than 3 months in seasonal and sessional employment ; the need for which may reasonably be anticipated and is likely to recur each year or shorter period and for persons who separate from a position while serving a probationary period.~~

SECTION 61. 16.24 (1) (a) and (2) of the statutes are renumbered 16.28 (1) (a) and (b) and (2) to (4), respectively, and amended to read:

**16.28 (title) DEMOTION, SUSPENSION, DISCHARGE AND LAYOFF.**

(1) (a) No permanent subordinate or An employe in the classified service who has been appointed under ss. 16.01 to 16.32 or the rules made pursuant thereto shall with permanent status in class may be removed, suspended without pay, discharged, or reduced in pay or position except only for just cause, which shall not be religious or political. This paragraph shall apply to all employes with permanent status in class in the classified service, except that for employes in a certified bargaining unit covered by a collective bargaining agreement, the determination of just cause and all aspects of the appeal procedure shall be governed by the provisions of the negotiated agreement.

(b) No suspension without pay shall be effective for more than 30 days. In all such cases the The appointing officer authority shall, at the time of such any action under this section, furnish to the subordinate employe in writing his reasons for the same therefor. The reasons for such action shall be filed in writing with the director within 5 days of after the effective date thereof. Within 10 days after the effective date of such action of the appointing officer, the employe may appeal to the board and within 30 days after the date of appeal, the board shall hold a public hearing thereon.

(2) Provisional employes as defined in s. 16.20 (1), emergency employes as defined in s. 16.20 (2), and limited term employes as defined in s. 16.20 (3) may be dismissed or laid off at any time at the discretion of the appointing officer. Seasonal employes provided for in s. 16.23 (3) may be dismissed or laid off at any time during the first 6 months of service, and, if such service extends beyond 6 months, they may be laid off at the expiration of the seasonal period, at the discretion of the appointing officer. In case Employes with permanent status in class in permanent, sessional and seasonal positions in the classified service and employes serving a probationary period in such positions after promotion or transfer may be laid off because of a reduction in force because of due to a stoppage or lack of work or funds or because of owing to material changes in duties or organization ; permanent employes shall be laid off in accordance with rules established by the personnel board. The seniority and service ratings of employes shall be considered, in such manner as the rules shall provide, in determining the order of layoffs and reinstatements but only after all original appointment probationary, provisional and emergency employes in the classes used for layoff, are terminated.

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

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

~~(3) The appointing officer authority shall confer with the director relative to a proposed layoff a reasonable time before the effective date thereof in order to assure compliance with the rules. Persons so laid off shall be placed on the appropriate reinstatement list.~~

~~(4) Resignations from the classified service shall be regulated by the rules of the personnel board director.~~

SECTION 62. 16.24 (1) (b) of the statutes is repealed.

SECTION 63. 16.24 (2) (c) of the statutes is created to read:

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

SECTION 64. 16.24 (3) of the statutes is renumbered 16.38 (4) and amended to read:

16.38 (4) RIGHTS OF EMPLOYEE. Any employe who ~~shall have~~ has been removed, demoted or reclassified, from or in any position or employment in contravention or violation of ~~ss. 16.01 to 16.32~~ this subchapter, and who ~~shall have~~ has been reinstated to such position or employment by order of the board or any court upon review, shall be entitled to compensation therefor from the date of such unlawful removal, demotion or reclassification at the rate to which he would have been entitled by law but for such unlawful removal, demotion or reclassification, and such employe shall be entitled to an order of mandamus to enforce the payment or other provisions of such order.

SECTION 65. 16.25 (1) of the statutes is repealed.

SECTION 66. 16.25 (2) of the statutes is renumbered 16.32 (1) and amended to read:

16.32 (title) STANDARDS OF PERFORMANCE AND RATINGS. (1) In ~~co-operation~~ cooperation with appointing officers and principal supervisors, ~~authorities~~ the director shall establish ~~and may~~ amend standards of performance and output for employes in each class of positions in the classified service or for groups of classes, and a system of service ratings based upon such standards. In such manner and with such weight as shall be provided in the rules, service ratings shall be considered in determining salary increases and decreases within the limits established by the salary schedules; as a factor in promotion tests; as a factor in determining the order of layoff when forces must be reduced because of lack of funds or work, or material changes in duties or organization and the order in which names are to be placed on reemployment lists; and as a means of discovering employes who should be promoted, demoted, transferred or dismissed. In such manner and at such times as the rules may require, each appointing officer shall report to the director the service ratings of employes in his division or such information as the director may request as a basis for determining such service ratings. Any employe shall be given reasonable opportunity to see

~~his service ratings and discuss the same with a representative of the department of administration and the rating officer of his department a uniform employe work planning and progress evaluation program, incorporating the principles of management by objectives, to provide a continuing record of employe development and, when applicable, to serve as a basis for decision-making on employe pay increases and decreases, potential for promotion, order of layoff and for other pertinent personnel actions.~~

SECTION 67. 16.26 of the statutes is renumbered 16.37 (1) and amended to read:

**16.37 (title) RECORD OF EMPLOYES AND CERTIFICATION OF PAYROLLS.** (1) ~~The director shall keep in the office an official roster of the all permanent classified employes in the classified service and shall enter thereon the name of each and every person who has been appointed to, employed, promoted, reduced or reinstated in any position in such service, upon such evidence as it may require or deem satisfactory that such person was appointed to, employed, promoted, reduced or reinstated in the service in conformity with this chapter, and the rules adopted pursuant thereto. This roster shall show in connection with each name the date of appointment, employment, promotion, reduction or reinstatement, increases and decreases in pay, the compensation and title of the position, changes in title, transfer and the date and nature of any termination of such office or employment. The director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with said roster which shall include classification titles, pay and employment status changes and appropriate dates thereof.~~

SECTION 68. 16.27 (1) to (3) of the statutes are renumbered 16.37 (2) to (4) and amended to read:

16.37 (2) Neither the secretary of administration nor other fiscal officer of this state shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state to pay any salary or compensation to any person in the classified service of the state unless an estimate, payroll or account for such salary or compensation, containing the names of every person to be paid, bears the certificate of the director of personnel appointing authority that the persons named in such estimate, payroll or account have been appointed, employed, reinstated or promoted as required by law and the rules established thereunder and that the salary or compensation is within the salary ranges fixed pursuant to s. 16.105 pay is in accordance with the law, compensation plan and rules of the director then in effect.

(3) Any ~~officer, clerk, employe, or other~~ person entitled to be certified by ~~said director to the secretary of state or other fiscal or disbursing officer of the state as described in sub. (2),~~ as having been appointed or employed in pursuance of law and of the rules made in pursuance of law pursuant thereto, and refused such certificate, may maintain an action of mandamus to compel the director to issue such certificate.

(4) Any sums paid contrary to this section may be recovered from any ~~officer or officers~~ appointing authority making such appointments in contravention of the provisions of law or of the rules made in pursuance of law pursuant thereto, or from any ~~officer appointing authority~~ signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, or from the sureties on the official bond of any of ~~said officers~~ such appointing authority, in an action in the circuit court of any county within the state, maintained by the director or the ~~personnel~~ board or by any member thereof, or by a citizen resident

therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city or county tax within this state. All moneys recovered in any action brought under this section when collected, shall be paid into the state treasury except that if a citizen taxpayer is plaintiff in any such action he shall be entitled to receive for his own use the taxable cost of such action and 5% of the amount recovered as attorney's fees.

SECTION 69. 16.274 of the statutes is renumbered 16.27 and amended to read:

**16.27 (title) LEAVE OF ABSENCE AND PAY WHILE SERVING IN UNCLASSIFIED POSITION.** ~~A permanent employe~~ Employees who have completed an original appointment probationary period in the classified service and are appointed to a position in the unclassified service shall be granted a leave of absence without pay from his former position in the classified service for the period of his service in such unclassified position and for one year thereafter, during which time he shall be entitled to return to such former position or to one with equivalent responsibility and pay in the classified service without loss of seniority or civil service status. ~~Any permanent employe receiving a greater salary in the classified service than that provided for a position in the unclassified service to which he is appointed shall be entitled to the same salary while serving in such position as he was receiving in the classified service at the time of such appointment subject to the following provisions relative to leave of absence, restoration rights, reinstatement privileges and pay:~~

(1) A person appointed by the governor, elected, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his department, shall be granted a leave of absence without pay for the duration of his appointment and for 3 months thereafter, during which time he shall have restoration rights to his former position or equivalent position in the department in which he was last employed without loss of seniority. He shall also have reinstatement privileges for 3 years following his appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from his former position in the classified service.

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

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

(4) This section shall supersede any provision of law in conflict therewith but shall not diminish the rights and privileges of employes appointed to the unclassified service from the classified service prior to the effective date of this section (1971).

SECTION 70. 16.275 (1) (a) to (j) except (gm), (2), as affected by chapter 125, laws of 1971, (4), (5), (6) (a), (am), (an), (ar), (b) and (c) and (7) of the statutes are renumbered 16.30

(1) (a) to (j), (2), (3) (a) and (c), (4) (a) to (f) and (5) and 16.30 (1) (a) (intro.) and 4, (b), (c), (d), (g) and (h), (2), (3) (a) and (c), (4) (b), (c) and (f) and (5), as renumbered, are amendeded to read:

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

4. Two hundred hours each year for a full year of service after 25 years of service but the employe, at his option, and subject to the rules of the ~~personnel board~~ director may receive 40 of such hours benefit ; a. as vacation during the year earned; b. in cash during the year earned; c. as credit for termination leave; d. as accumulated sabbatical leave.

(b) An employe, with the approval of the head of his department, may anticipate the annual leave which he could earn during the current calendar year except that no employe shall be eligible to take annual leave until he has completed the first 6 months of a probationary period for an original appointment ~~established pursuant to s. 16.22 (1).~~

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

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

(g) The continuous service of an employe eligible for annual leave shall not be considered interrupted if he ~~1. was absent for not more than 30 calendar days ; 2. in a calendar year or was on an approved leave of absence ; or 3. left the service for any reason except to take other employment and is reemployed within 3 years. However, employment by any other political subdivision of this state shall not be construed as other employment. This paragraph applies to all persons who are employes on the effective date of this amendment and to all employes returning to service after that date.~~

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

(2) Leave of absence with pay owing to sickness and leave of absence without pay, other than annual leave, shall be regulated by rules of the ~~personnel board~~ director, except that unused sick leave shall accumulate from year to year.

(3) (a) Officials and employes of the state who have permanent status or are seasonal employes who have worked at least 6 continuous months in prior seasonal employment and who are duly enrolled members of the national guard, the state guard, the officers' reserve corps, the enlisted reserve corps, the naval reserve,

~~the marine corps reserve~~, or any other reserve component of the military or naval forces of the United States or this state now or hereafter organized or constituted under federal or state law, are entitled to leaves of absence without loss of time in the service of the state, to enable them to attend military and naval schools, field camps of instruction and naval exercises which have been duly ordered held but not to exceed and annual field training or annual active duty for training, and any other state or federal tours of active duty, except extended active duty or service as a member of the active armed forces of the United States which have been duly ordered but not exceeding 15 days, excluding Saturdays, Sundays and holidays enumerated in sub. (6) (4) in the calendar year in which so ordered and held. There shall be no deduction from or interruption in the pay from the state for the time spent in such attendance, ~~irrespective of whether or not they receive separate pay for and identified with the attendance. The~~ Such leave shall not be granted for absences of less than 3 days. A state official or employe serving on state active duty as a member of the national guard or state guard, may elect to receive pay from the state under s. 20.465 (1) in an amount equal to his base state salary for such period of state active duty. Leave granted by this section is in addition to all other leaves granted or authorized by any other provision of law and the time of the leave granted under this section shall not be deemed a part of any leave granted or authorized by any other provision of law. For the purpose of determining seniority, pay or salary pay advancement and merit increases the status of the employe shall be considered as though not interrupted uninterrupted by such attendance.

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

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

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

(f) Monday to Friday ~~office hours~~ the offices of the departments of state government shall begin open at 7:45 a.m. and close at 4:30 p.m. with intermissions from 11:45 a.m. to 12:30 p.m. Departments may, with the permission of the governor, adjust opening and closing hours and intermission periods to relieve traffic congestion or as the needs of the service otherwise require consistent with the ~~principle of the 8 hour day herein established.~~ During a ~~proclaimed national emergency or a limited national emergency,~~ the governor may extend the work week and adjust the working hours to use the available manpower of any or all departments as it is deemed essential. Compensation for such extended work week or adjusted working hours shall be adjusted as provided for in the state's compensation plan.

(5) (a) The standard basis of employment for the state service shall be is 40 hours per week divided into 5 days of 8 hours each 7 consecutive calendar day period, except that where when the conditions of employment needs of an employing unit cannot be fulfilled by adhering to the standard week, deviations basis of employment, additional hours of work may be permitted upon recommendation of required by the appointing authority and subsequent approval of

~~the department of administration. During a proclaimed national emergency, the governor may extend the work week and adjust the working hours to use the available manpower of any or all departments as he deems essential.~~

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

SECTION 71. 16.275 (1) (gm), as created by chapter 91, laws of 1971, and (3), as created by chapter 125, laws of 1971, of the statutes are renumbered 16.30 (1) (gm) and (2m), respectively.

SECTION 72. 16.275 (1) (n) of the statutes is renumbered 16.086 (1) (e) and amended to read:

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

SECTION 73. 16.276 of the statutes is renumbered 16.26 and amended to read:

**16.26 RESTORATION AFTER MILITARY LEAVE.** (1) Any classified employe of this state ~~except a limited term employe, who has enlisted or enlists or has been or is inducted or ordered or is inducted~~ into active service in the armed forces of the United States pursuant to the selective training and service act of 1940 or the national guard and reserve officer mobilization act of 1940, the selective service act of 1948 and any acts amendatory thereof or supplementary thereto or P.L. 87-117, and any such employe whose services are specifically or who is requested by to work for the federal government for national defense work as a civilian during a period officially proclaimed to be a national emergency or a limited national emergency, who, in order to perform such training or service, has left or leaves a position, other than a temporary position, as a classified employe of this state shall be restored to such a the same or similar position or to a position of like seniority, status, pay, salary advancement and pension rights under ss. 42.60 to 42.70 [Stats. 1945] as though such services toward seniority, status, pay, salary advancement and pension rights under ss. 42.60 to 42.70 had in the classified service and his employment shall be deemed not to have been interrupted by such designated service, provided that leave except for the receipt of pay or other compensation, accumulation of sick leave and accumulation of vacation for the period of such absence and he shall be given all the benefits of seniority, status, pay, pay advancement, merit increases and pension rights under ch. 41 and subch. I of ch. 42 as though his state employment was continuous, if:

(a) he He presents to the ~~employing agency~~ appointing authority a certificate or other evidence that he has satisfactorily completed his period of training or service, and discharge is other than dishonorable or other than by reason of the sentence of a general court martial, or other than on the ground that he was a conscientious objector who refused to perform military duty or refused

to wear the uniform or otherwise to comply with lawful orders of competent military authorities, or other than as a deserter or of an officer by the acceptance of his resignation for the good of the service.

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

(c) ~~He~~ is still qualified to perform the duties of such position, ~~(e) he .~~

(d) He makes application for re-employment restoration within 90 180 days after he is released from such training or services, and (d) the or hospitalization continuing after discharge because of injuries or sickness resulting from such training or service.

~~(e) The circumstances of the employing agency have not changed so as to make it impossible or unreasonable to so restore such employe and upon the employe's request made at any time before 6 months after he is relieved from such training or services, or absence during federal hospitalization because of injuries or sickness resulting from such war or emergency service the employe, upon presentation of proof of discharge other than dishonorable or other than (a) by reason of the sentence of a general court martial, (b) on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authorities, (c) as a deserter or (d) of an officer by the acceptance of his resignation for the good of the service, release from such active service or federal hospitalization shall be restored as hereinafter provided: .~~

(2) (a) Any classified employe with permanent status in class who had attained permanency under s. 16.22 and the rules of the personnel board pursuant thereto when he left leaves state service shall, under this for the reasons specified in this section , be restored to a position of like seniority, status, pay, salary advancement, group insurance and pension rights under subch. II of ch. 41. The service of any employe who is or was so restored shall be deemed not to be or have been interrupted by such leave, except for the receipt of pay or other compensation, accumulation of sick leave, and vacation for the period of such absence, and he shall be given all the benefits of seniority, status, pay, salary advancement and pension rights under subch. II of ch. 41 as though his state employment had not been so interrupted. Any permanent employe who leaves the service by reason of being called to active duty in the armed forces under P.L. 87-117 and who has used his yearly vacation in anticipation of a full year's employment is presumed not to have interrupted his employment as far as vacation pay is concerned, and any portion of his vacation for which he was paid which is unearned at the time of being called to active duty as herein specified may be made up when he returns to work state service. If such employe does not return to the state service, he shall within 2 years after termination of leave repay the state the amount he had not earned. The application of this provision shall be retroactive to all state employes called to active duty under P.L. 87-117.

(b) Any classified employe who was serving his probationary period, except in the capacity of a substitute, under s. 16.22 and the rules of the personnel board pursuant thereto when he left state service shall, under this section, be restored to that point of service in his probationary period as though his state employment had not been so interrupted.

(c) Any classified employe who had attained reinstatement restoration rights as a seasonal employe under s. 16.22, and the rules of the personnel board pursuant thereto, when he left state service shall, under this section, be restored to such seasonal

position or eligibility as though his service or eligibility had not been so interrupted.

~~(2)~~ (3) (a) Any classified employe who leaves state service and enters the armed forces of the United States shall, under this section, be ~~given~~ granted written military leave of absence by the ~~employing agency appointing authority~~. Notice of such ~~severance leave~~ from state service and the terms of any such leave shall be given in writing by the ~~employing agency appointing authority~~ to the director for purposes of record.

(b) Any classified employe who leaves state service for civilian employment in response to a specific request or order of the federal government or any of its agencies in connection with manpower redistribution and utilization shall, under this section, make written application to the ~~employing agency appointing authority~~ for civilian leave of absence presenting such specific request or order of the federal government as supporting evidence. Such civilian leave shall be allowed by the ~~employing agency appointing authority~~ and its terms, which shall conform to the rules of the ~~personnel board director~~, shall be in writing. Notice of such ~~severance leave~~ from state service shall be made in writing by the ~~employing agency appointing authority~~ to the director for purposes of record.

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

~~(3)~~ (4) Any person appointed to fill the position of an employe on such military or civilian leave shall be designated as a substitute or replacement employe and upon the return and reemployment of the original employe the substitute employe shall be transferred to a similar position with the same employing agency if one is available, or if not, ~~his name shall be placed upon an appropriate reemployment register in accordance with the rules of the personnel board~~ he shall be eligible for reinstatement in accordance with this subchapter and the rules of the director. The status of any person who is appointed to fill the place of an employe on military or civilian leave under this section shall be governed by the rules of the ~~personnel board director~~ pursuant thereto.

~~(4)~~ (5) The restoration of classified ~~former~~ employes of the state shall be governed by this section and by the rules of the ~~personnel board director~~.

SECTION 74. 16.277 of the statutes is renumbered 16.26 (6).

SECTION 75. 16.28 of the statutes is renumbered 16.38 (5) and amended to read:

16.38 (5) TAXPAYERS' SUITS. The right of any taxpayer to bring any action to restrain the payment of compensation to any person appointed to or holding any office or place of employment in violation of ~~ss. 16.01 to 16.32~~ this subchapter shall not be limited or denied by reason of the fact that ~~said~~ the office or place of employment has been classified as, or determined to be, not subject to competitive examination; however, any judgment or injunction in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers, in accordance with the rules of the ~~personnel board director~~ in force at the times time of such payments.

SECTION 76. 16.28 (1) (c) of the statutes is created to read:

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

SECTION 77. 16.285, except 16.285 (3) (b), of the statutes is renumbered 16.24 and 16.24 (1), (2) (a) and (b), (3), (4) (b), (5), (6) (a) and (7) to (9), as renumbered, are amended to read:

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

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

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

(3) ~~(a)~~ Any department, agency or instrumentality of the state, ~~county, municipality or college or university operated by the~~ state or institution of higher education or any local government or other municipal corporate agency is authorized to participate in a program of interchange of employes with departments, agencies or instrumentalities of the federal government, another state or ~~locality, local government, an institution of higher education, other municipal corporate agencies or other agencies, municipalities,~~ or instrumentalities of this state as a sending or receiving agency.

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

(5) A sending agency ~~in this of the~~ state shall not pay the travel expenses of its employes incurred in connection with their work assignments at the receiving agency.

(6) (a) When any ~~unit of government department, agency or instrumentality~~ of this state acts as a receiving agency, employes of the sending agency who are assigned under authority of this section are on detail to the receiving agency.

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

(8) ~~The department of administration may adopt~~ director shall promulgate rules to implement for the operation and implementation of this section ~~and to assist departments, agencies and instrumentalities of the state and its political subdivisions in participating in employe interchange programs. The rules shall prescribe the duration, terms and conditions of such interchange.~~

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

(b) A receiving agency ~~in this of the~~ state may, in accordance with the salary provisions of the sending agency, reimburse the sending agency for salary and fringe benefit expenditures for employes on detail to the receiving agency.

SECTION 78. 16.285 (3) (b) of the statutes is repealed.

SECTION 79. 16.29 (1) and (2) of the statutes are repealed.

SECTION 80. 16.29 (3) of the statutes is renumbered 16.36 and amended to read:

**16.36 INVALID APPOINTMENTS.** Any person employed or appointed contrary to ss. ~~16.01 to 16.32~~ this subchapter, or ~~of to~~ the rules established thereunder, shall be paid by the ~~officer or officers~~ appointing authority so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any service performed under such appointment or employment, or attempted appointment or employment, or in case no compensation is agreed upon, the actual value of such services and any expenses incurred in connection therewith, and shall have a cause of action against such ~~officer or officers or any of them~~ appointing authority, for such sum and for the costs of the action. No ~~public officer appointing~~ authority shall be reimbursed by the state for any sums so paid or recovered in any such action.

SECTION 81. 16.29 (4) of the statutes is renumbered 16.32 (2) and amended to read:

16.32 (2) When an employe becomes physically or mentally incapable of or unfit for the efficient and effective performance of the duties of his position by reason of infirmities due to age, disabilities, or otherwise, the ~~appointing officer~~ appointing authority shall either transfer him to a position which requires less arduous duties ~~or, if necessary demote him,~~ place him on a part-time service basis and at a part-time rate of pay or as a last resort ~~retire,~~ dismiss him from the service. The ~~appointing officer~~ appointing authority may require the employe to submit to a medical ~~or physical~~ examination to determine his fitness to continue in service. The cost of such examination shall be paid by the employing department. ~~In either case the same method of procedure shall be followed and the same right of appeal to the personnel board as provided in s. 16.24. In no event shall these provisions affect pensions or other retirement benefits for which the employe may otherwise be eligible.~~

SECTION 82. 16.30 of the statutes is renumbered 16.35 and amended to read:

**16.35 POLITICAL ACTIVITIES: PUBLIC OFFICE.** (1) No person holding a position in the classified civil service shall directly or indirectly solicit or receive ~~or be in any manner concerned with~~ soliciting or receiving any assistance or subscriptions or contributions for any partisan political party or any political purpose whatsoever. No person shall orally or by letter solicit or be in any manner concerned in soliciting any assistance, subscription, or support for any partisan political party or purpose whatsoever from any person holding any position in the classified civil service. No person holding any position in the classified civil service shall during the hours when he is on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor shall he engage in any political activity when not on

duty to such an extent that his efficiency during working hours will be impaired or that he will be tardy or absent from his work. Any violation of this section shall be adequate grounds for dismissal.

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

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

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

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

SECTION 83. 16.30 (1) (m) and (3) (b) and (d) of the statutes are created to read:

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

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

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

SECTION 84. 16.301 of the statutes, as affected by chapter 164, laws of 1971, is renumbered 16.38 (1) and 16.38 (1) (a), (b) and (e), as renumbered, are amended to read:

**16.38 MISDEMEANORS; HOW PUNISHED.** (1) OBSTRUCTION OR FALSIFICATIONS OF EXAMINATIONS. (a) Any person who wilfully, by himself or in cooperation with one or more persons, defeats, deceives or obstructs any person in respect of his or her rights of examination or registration, ~~according to ss. 16.01 to 16.32 under this subchapter~~ or to any rules ~~or regulations~~ prescribed pursuant thereto, or

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

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

SECTION 85. 16.302 of the statutes is renumbered 16.38 (2) and amended to read:

16.38 (2) PROHIBITED APPOINTMENTS. Whoever, after a rule has been duly established and published, ~~according to ss. 16.01 to 16.32,~~ makes an appointment to office or selects a person for employment, contrary to such rule, or wilfully refuses or neglects otherwise to comply with, or to conform to, ~~ss. 16.01 to 16.32 this subchapter,~~ or violates any of such provisions, shall be deemed guilty of a misdemeanor. If any person ~~shall be~~ is convicted under this section subsection, any public office which such person may hold shall by force of such conviction be rendered vacant, and such person shall be incapable of holding public office for the a period of 5 years from the date of such conviction.

SECTION 86. 16.303 of the statutes is renumbered 16.38 (3) and amended to read:

16.38 (3) PENALTY. Misdemeanors under ~~s. 16.301 or 16.302~~ this section are punishable by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 2 years, or both.

SECTION 87. 16.305 of the statutes is renumbered 16.34 and 16.34 (2), (3) (a) and (b), (4) and (5), as renumbered, are amended to read:

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

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

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

(4) RULES. The board may ~~adopt and promulgate rules and regulations~~ governing the operation of any plan or plans established under this section, the eligibility and qualifications of state employes participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for merit awards, and the kind, character and value of such awards, and such other rules ~~and regulations as may be deemed as are necessary or appropriate~~ for the proper administration of this section or for the accomplishment of the purposes thereof.

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

SECTION 88. 16.31 (1), (3) (b) (intro.), (c) 3, 4 and 5 and (e) (intro.) and 1 and (4) of the statutes are amended to read:

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

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

(c) 3. When injury is inflicted occasioned as the result of an assault or act of violence by a patient, inmate, probationer or parolee; or

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

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

(c) (intro.) An engineering aid ~~or~~ an engineer or building construction superintendent at all times while:

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

(4) ~~In case an~~ An employe is denied benefits ~~provided by~~ under this section ~~by the employing department or the director of personnel, the employe shall have a right of~~ may appeal to the ~~personnel board~~ director. The ~~personnel board~~ director shall conduct hearings ~~under the rules prescribed by the board~~ and shall make an order granting or denying the application for benefits or making a determination as to the duration thereof. The ~~personnel board~~ director shall ~~pursuant to s. 16.05,~~ adopt rules for the administration of this section.

SECTION 89. 16.32 of the statutes is repealed.

SECTION 90. 16.325 of the statutes is created to read:

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

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

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

SECTION 91. 16.33 (7), (8) and (9) of the statutes are created to read:

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

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

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

SECTION 92. 16.42 (4) of the statutes is amended to read:

16.42 (4) A list of all employe positions and their ~~salaries at the time of such report showing basic salary pay, cost of living bonus, and total salary,~~ together with similar comparative detail for the succeeding biennium showing, in addition, the proposed ~~merit~~ pay increases contemplated for each ensuing year of the biennium as well as all contemplated new employe positions and ~~the salaries to be paid their pay;~~ such statement to be furnished on forms prescribed by the secretary;

SECTION 93. 16.50 (3) of the statutes is amended to read:

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16.50 (3) It is unlawful for any department, except the legislature and the courts, to increase the salary pay of any employe, to employ any additional employes, or to expend money or incur any obligations except in accordance with an estimate submitted to the secretary as provided in sub. (1) and which shall have been approved either by such the secretary or by the governor. Approval by the secretary shall not be necessary for any expenditure which may be made only with the approval of the governor. No salary pay increase shall be approved unless it is at the rate or within the salary pay ranges fixed by the personnel board prescribed in the compensation plan or as published in a collective bargaining agreement under subch. V of ch. 111.

SECTION 94. 20.865 (1) (c) (intro.) of the statutes is amended to read:

20.865 (1) (c) (intro.) A sum sufficient to pay the cost of salary pay adjustments approved by the legislature or the ~~board on government operations~~ joint committee on employment relations under s. ~~16.105~~ 16.086 for employes of the classified service and comparable adjustments for those employes in the unclassified service, except those included under ss. 16.08 (2) (f) and 20.923 (3) (d) and (j) as determined and allocated pursuant to subds. 1 and 2, and to pay the cost of any salary pay adjustments made under s. ~~16.106~~ 16.085.

SECTION 95. 20.865 (1) (cm) of the statutes is created to read:

20.865 (1) (cm) Collective bargaining agreements. A sum sufficient to pay the cost of salary adjustments, fringe benefits, or other costs approved by the legislature under s. 111.92.

SECTION 96. 20.916 (2) of the statutes is amended to read:

20.916 (2) Subject to rules of the ~~personnel board and approval of the director~~, reimbursement may be made to applicants for ~~professional and technical positions~~ for all or part of actual and necessary travel expenses incurred in connection with oral examination and employment interviews.

SECTION 97. 20.921 (1) (b) of the statutes is amended to read:

20.921 (1) (b) The request shall be made to the state agency in such form and manner and contain such directions and information as is prescribed by each state agency. The request may be withdrawn or the amount paid to the payee may be changed by notifying the state agency to that effect, but no such withdrawal or change shall affect a payroll certification already prepared. However, time limits for withdrawal of payment of dues to employe organizations shall be as provided under s. 111.84 (2) (f).

SECTION 98. 20.923 (2) (e) 5 of the statutes is amended to read:

20.923 (2) (e) 5. Members of the legislature. The salary of the members of the legislature shall be determined under s. 16.09, but if the recommendation of the legislative compensation council is not adopted under s. ~~16.105 (2) (a), (3) and (4)~~ ss. 16.086 (3) (b) and 16.09 as submitted by the council, the salary shall be as previously established.

SECTION 99. 41.02 (12) (a) of the statutes is created to read:

41.02 (12) (a) Who are employed as sessional employes in the legislative reference bureau, but any such employe who has served 6 months or more in such sessional position shall, if appointed to a permanent position, become a participating employe as of the date of such appointment.

SECTION 100. Subchapter V of chapter 111 of the statutes is repealed and recreated to read:

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STATE EMPLOYMENT LABOR RELATIONS ACT.

**111.80 DECLARATION OF POLICY.** The public policy of the state as to labor relations and collective bargaining in state employment, in the furtherance of which this subchapter is enacted, is as follows:

(1) It recognizes that there are 3 major interests involved: that of the public, that of the state employe and that of the state as an employer. These 3 interests are to a considerable extent interrelated. It is the policy of this state to protect and promote each of these interests with due regard to the situation and to the rights of the others.

(2) Orderly and constructive employment relations for state employes and the efficient administration of state government are promotive of all these interests. They are largely dependent upon the maintenance of fair, friendly and mutually satisfactory employe management relations in state employment, and the availability of suitable machinery for fair and peaceful adjustment of whatever controversies may arise. It is recognized that whatever may be the rights of disputants with respect to each other in any controversy regarding state employment relations, neither party has any right to engage in acts or practices which jeopardize the public safety and interest and interfere with the effective conduct of public business.

(3) Where permitted under this subchapter, negotiations of terms and conditions of state employment should result from voluntary agreement between the state and its agents as an employer, and its employes. For that purpose a state employe may, if he desires, associate with others in organizing and in bargaining collectively through representatives of his own choosing without intimidations or coercion from any source.

(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.

**111.81 DEFINITIONS.** In this subchapter:

(1) "Commission" means the employment relations commission.

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(2) "Collective bargaining" means the performance of the mutual obligation of the state as an employer, by its officers and agents, and the representatives of its employes, to meet and confer at reasonable times, in good faith, with respect to the subjects of bargaining provided in s. 111.91 (1) with the intention of reaching an agreement, or to resolve questions arising under such an agreement. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document.

(3) "Collective bargaining unit" means a unit established under this subsection.

(a) It is the express legislative intent that in order to foster meaningful collective bargaining, units must be structured in such a way as to avoid excessive fragmentation whenever possible. In accordance with this policy, bargaining units shall be structured on a statewide basis with one unit for each of the following occupational groups:

1. Clerical and related
2. Blue collar and nonbuilding trades
3. Building trades crafts
4. Security and public safety
5. Technical
6. Professional
  - a. Fiscal and staff services
  - b. Research, statistics and analysis
  - c. Legal
  - d. Patient treatment
  - e. Patient care
  - f. Social services
  - g. Education
  - h. Engineering
  - i. Science

(am) Notwithstanding par. (a), the legislature recognizes that additional or modified statewide units may be appropriate in the future. Therefore, after July 1, 1974, the employer or employe organizations may petition the commission for the establishment of additional or modified statewide units. The commission shall determine the appropriateness of such petitions taking into consideration both the community of interest and the declared legislative intent to avoid fragmentation whenever possible.

(b) The commission shall assign eligible employes to the appropriate statutory bargaining units set forth in par. (a).

(c) 1. Where a single labor organization has been certified prior to the effective date of this subsection (1971) as the bargaining representative for employes assigned to a particular statutory bargaining unit, and the certification represents a majority of

eligible employees assigned to the statutory bargaining unit, such organization shall be recognized as the exclusive representative for all employees assigned to the particular statutory unit without an election proceeding under s. 111.83.

2. If more than one labor organization has been certified prior to the effective date of this subsection (1971) as the bargaining representative for employees assigned to a particular statutory unit and one of these organizations desires to be designated as the exclusive bargaining representative for the unit, a statewide election for all employees assigned to the particular statutory bargaining unit shall be held within one year under s. 111.83.

3. If a single labor organization has been certified prior to the effective date of this subsection (1971) as the bargaining representative for employees assigned to a particular statutory unit and the certification represents a minority of eligible employees assigned to the particular statutory unit, a statewide election among all employees of the unit shall be held upon petition of the minority representative without regard to the one year limitation under subd. 2.

4. Notwithstanding subds. 1, 2 and 3, any labor organization may petition for recognition as the exclusive representative of a statutory bargaining unit in accordance with the election procedures set forth in s. 111.83.

(d) Although supervisory personnel are not considered employees for purposes of this subchapter, the commission may consider petitions for a statewide unit of professional supervisory employees and a statewide unit of nonprofessional supervisory employees, but the certified representatives may not be affiliated with labor organizations representing employees assigned to the statutory units set forth in s. 111.81 (3) (a). The certified representatives for supervisory personnel may not bargain on any matter other than wages and fringe benefits as defined in s. 111.91 (1).

(4) "Craft employe" means a skilled journeyman craftsman, including his apprentices and helpers, but shall not include employes not in direct line of progression in the craft.

(5) "Election" means a proceeding conducted by the commission in which the employes in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in this subchapter.

(6) "Fair-share agreement" means an agreement between an employer and a labor organization including supervisory units under which all or any of the employes in the collective bargaining unit are required to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. Such an agreement shall contain a provision requiring the employer to deduct the amount of dues as certified by the labor organization from the earnings of the employes affected by said agreement and to pay the amount so deducted to the labor organization. Unless the parties agree to an earlier date, the fair-share agreement shall take effect 60 days after certification by the commission that the referendum vote favored the fair-share agreement. The employer shall be held harmless against any and all claims, demands, suits or other forms of liability which may arise for actions taken or not taken by the employer in compliance with this subsection. All such claims, demands, suits or other forms of liability made by employes or local labor organizations shall be under the control of the labor organization designated by the contract negotiated under the provisions of this subchapter.

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

(8) "Labor dispute" means any controversy with respect to the subjects of bargaining provided in this subchapter.

(9) "Labor organization" means any employe organization whose purpose is to represent state employes in collective bargaining with the state, or its agents, on matters pertaining to terms and conditions of employment; but the term shall not include any organization:

(a) Which advocates the overthrow of the constitutional form of government in the United States; or

(b) Which discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age or national origin.

(10) "Person" includes one or more individuals, labor organizations, associations, corporations or legal representatives.

(11) "Professional employe" means:

(a) Any employe engaged in work:

1. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

2. Involving the consistent exercise of discretion and judgment in its performance;

3. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;

4. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes; or

(b) Any employe who:

1. Has completed the courses of specialized intellectual instruction and study described in par. (a) 4; and

2. Is performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in par. (a).

(12) "Unfair labor practice" means any unfair labor practice specified in s. 111.84.

(13) "Referendum" means a proceeding conducted by the commission in which employes in a collective bargaining unit may cast a secret ballot on the question of directing the labor organization and the employer to enter into a fair-share agreement. For a fair-share agreement to be effective, at least two-thirds of the eligible employes voting in a referendum must vote in favor of the agreement.

(14) "Representative" includes any person chosen by an employe to represent him.

(15) "Employe" includes any state employe in the classified service of the state, as defined in s. 16.08, except limited term

employees, sessional employees, employees who are performing in a supervisory capacity, management employees and individuals privy to confidential matters affecting the employer-employee relationship, as well as all employees of the commission.

(16) "Employer" means the state of Wisconsin. 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. It is the responsibility of the executive branch to negotiate collective bargaining agreements, and to administer such 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 administration 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. It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch which require legislative action.

(17) "Joint committee on employment relations" means the legislative committee created under s. 13.111.

(18) "Strike" includes any strike or other concerted stoppage of work by employees, and any concerted slowdown or other concerted interruption of operations or services by employees, or any concerted refusal to work or perform their usual duties as employees of the state. The occurrence of a strike and the participation therein by an employee do not affect the right of the employer, in law or equity, to deal with such strike.

(19) "Supervisor" means any individual whose principal work is different from that of his subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline employees, or to adjust their grievances, or to authoritatively recommend such action, if his exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(20) "Management" includes those personnel engaged predominately in executive and managerial functions, including such officials as division administrators, bureau directors, institutional heads and employees exercising similar functions and responsibilities as determined by the commission.

**111.82 RIGHTS OF STATE EMPLOYES.** State employees shall have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing under this subchapter, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Such employees shall also have the right to refrain from any or all of such activities.

**111.83 REPRESENTATIVES AND ELECTIONS.** (1) A representative chosen for the purposes of collective bargaining by a majority of the state employees voting in a collective bargaining unit shall be the exclusive representative of all of the employees in such unit for the purposes of collective bargaining. Any individual employee, or any minority group of employees in any collective bargaining unit, may present grievances to the state employer in person, or through representatives of their own choosing, and the state employer shall confer with said employee in relation thereto if the majority representative has been afforded the opportunity to be present at the conference. Any adjustment resulting from such a conference may not

be inconsistent with the conditions of employment established by the majority representative and the state.

(2) Whenever the commission decides to permit employes to determine for themselves whether they desire to establish themselves as a collective bargaining unit, such determination shall be conducted by secret ballot. In such instances, the commission shall cause the balloting to be conducted so as to show separately the wishes of the employes in the voting group involved as to the determination of the collective bargaining unit.

(3) Whenever a question arises concerning the representation of employes in a collective bargaining unit the commission shall determine the representative thereof by taking a secret ballot of the employes and certifying in writing the results thereof to the interested parties and to the state and its agents. There shall be included on any ballot for the election of representatives the names of all persons having an interest in representing employes submitted by an employe or group of employes participating in the election, except that the commission may exclude from the ballot one who, at the time of the election, stands deprived of his rights under this subchapter by reason of a prior adjudication of his having engaged in an unfair labor practice. The ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. The commission's certification of the results of any election shall be conclusive as to the findings included therein unless reviewed under s. 111.07 (8).

(4) Whenever an election has been conducted under sub. (3) in which the name of more than one proposed representative appears on the ballot and results in no conclusion, the commission may, if requested by any party to the proceeding within 30 days from the date of the certification of the results of such election, conduct a runoff election. In such runoff election, the commission may drop from the ballot the name of the representative who received the least number of votes at the original election. The commission shall drop from the ballot the privilege of voting against any representative when the least number of votes cast at the first election was against representation by any named representative.

(5) While an agreement between a labor organization and an employer is in force under this subchapter, a petition for election may only be filed not more than 90 days nor less than 60 days prior to the expiration of such agreement. An election held pursuant to such petition shall be held only if the petition is supported by proof that at least 30% of the employes desire a change or discontinuance of existing representation.

**111.84 UNFAIR LABOR PRACTICES.** (1) It is an unfair labor practice for an employer individually or in concert with others:

(a) To interfere with, restrain or coerce state employes in the exercise of their rights guaranteed in s. 111.82.

(b) To initiate, create, dominate or interfere with the formation or administration of any labor or employe organization or contribute financial support to it. However, it is not an unfair labor practice for the employer to reimburse state employes at their prevailing wage rate for the time spent during the employe's regularly scheduled hours conferring with the employer's officers or agents and for attendance at commission or court hearings necessary for the administration of this subchapter. Professional supervisory personnel may maintain membership in professional organizations; however, as members of such organizations they shall be prohibited from those activities related to collective bargaining in which the professional organization may engage.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure or other terms or conditions of employment, but the prohibition shall not apply to fair-share agreements.

(d) To refuse to bargain collectively with a representative of a majority of its employees in an appropriate collective bargaining unit. Where the employer has a good faith doubt as to whether a labor organization claiming the support of a majority of its employees in appropriate bargaining unit does in fact have that support, it may file with the commission a petition requesting an election as to that claim. It shall not be deemed to have refused to bargain until an election has been held and the results thereof certified to it by the commission. The violation shall include, though not be limited to, the refusal to execute a collective bargaining agreement previously orally agreed upon.

(e) To violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours and conditions of employment affecting state employees, including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept such award as final and binding upon them.

(f) To deduct labor organization dues from an employee's earnings, unless the state employer has been presented with an individual order therefor, signed by the state employee personally, and terminable by at least the end of any year of its life or earlier by the state employee giving at least 30 but not more than 120 days' written notice of such termination to the state employer and to the representative organization, except where there is a fair-share agreement in effect. The employer shall give notice to the union of receipt of such notice of termination.

(2) It is unfair practice for an employe individually or in concert with others:

(a) To coerce or intimidate an employe in the enjoyment of his legal rights, including those guaranteed under s. 111.82.

(b) To coerce, intimidate or induce any officer or agent of the employer to interfere with any of its employes in the enjoyment of their legal rights including those guaranteed under s. 111.82 or to engage in any practice with regard to its employes which would constitute an unfair labor practice if undertaken by him on his own initiative.

(c) To refuse to bargain collectively on matters set forth in s. 111.91 (1) with the duly authorized officer or agent of the employer which is the recognized or certified exclusive collective bargaining representative of employes in an appropriate collective bargaining unit. Such refusal to bargain shall include, but not be limited to, the refusal to execute a collective bargaining agreement previously orally agreed upon.

(d) To violate the provisions of any written agreement with respect to terms and conditions of employment affecting employes, including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept such awards as final and binding upon them.

(e) To engage in, induce or encourage any employes to engage in a strike, or a concerted refusal to work or perform their usual duties as employes.

(f) To coerce or intimidate a supervisory employe, officer or agent of the employer, working at the same trade or profession as

its employes, to induce him to become a member of or act in concert with the labor organization of which the employe is a member.

(3) It is an unfair labor practice for any person to do or cause to be done on behalf of or in the interest of employers or employes, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by subs. (1) and (2).

(4) Any controversy concerning unfair labor practices may be submitted to the commission as provided in s. 111.07, except that the commission shall fix hearing on complaints involving alleged violations of sub. (2) (e) within 3 days after filing of such complaints, and notice shall be given to each party interested by service on him personally, or by telegram, advising him of the nature of the complaint and of the date, time and place of hearing thereon. The commission may in its discretion appoint a substitute tribunal to hear unfair labor practice charges by either appointing a 3-member panel or submitting a 7-member panel to the parties and allowing each to strike 2 names. Such panel shall report its finding to the commission for appropriate action.

**111.85 ENCOURAGEMENT OF VOLUNTARY PROCEDURES TO PROMOTE MORE STABILITY, PEACE AND RESPONSIBILITY IN STATE EMPLOYMENT.**

(1) No fair-share agreement shall become effective unless authorized by referendum. The authorization of such fair-share agreement shall continue thereafter subject to the right of the employer or labor organization concerned to petition the commission to conduct a new referendum on the subject. Such petition must be supported by proof that at least 30% of the employes in the collective bargaining unit desire that the fair-share agreement be discontinued. Upon so finding, the commission shall conduct a new referendum. If the continuance of the agreement is approved by the referendum by at least the number of employes required for its initial authorization, it shall be continued in effect, subject to the right of the employer or labor organization to later initiate a further vote following the above procedure. If the continuation of the agreement is not supported in any referendum, it shall be deemed terminated at the termination of the collective bargaining agreement, or one year from the date of the certification of the result of the referendum, whichever is earlier. The commission shall declare any fair-share agreement suspended upon such conditions and for such time as the commission decides whenever it finds that the labor organization involved has refused on the basis of race, color or creed to receive as a member any employe in the bargaining unit involved, and such agreement shall be made subject to the findings and orders of the commission. Any of the parties to such agreement or any employe covered thereby, may come before the commission, as provided in s. 111.07, and allege a violation of this provision.

(2) A stipulation for a referendum executed by an employer and a labor organization may not be filed until after the representation election has been held and the results certified.

(3) The commission may, under rules adopted for that purpose, appoint as its agent an official of the state department or agency involved to conduct the referenda provided for herein.

**111.86 ARBITRATION IN GENERAL.** Parties to the dispute pertaining to the interpretation of a collective bargaining agreement may agree in writing to have the commission or any other appointing agency serve as arbitrator or may designate any other competent, impartial and disinterested persons to so serve. Such arbitration proceedings shall be governed by ch. 298.

**111.87 MEDIATION.** The commission may appoint any competent, impartial, disinterested person to act as mediator in any labor dis-

pute either upon its own initiative or upon the request of one of the parties to the dispute. It is the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the commission shall have any power of compulsion in mediation proceedings.

**111.88 FACT-FINDING.** (1) If a dispute has not been settled after a reasonable period of negotiation and after the settlement procedures, if any, established by the parties have been exhausted, the representative, which has either been certified by the commission after an election, or has been duly recognized by the employer, as the exclusive representative of employees in an appropriate collective bargaining unit, and the employer, its officers and agents, after a reasonable period of negotiation, are deadlocked with respect to any dispute between them arising in the collective bargaining process, the parties jointly, may petition the commission, in writing, to initiate fact-finding under this section, and to make recommendations to resolve the deadlock.

(2) Upon receipt of a petition to initiate fact-finding, the commission shall make an investigation with or without a formal hearing, to determine whether a deadlock in fact exists. After its investigation, the commission shall certify the results thereof. If the commission decides that fact-finding should be initiated, it shall appoint a qualified, disinterested person or 3-member panel, when jointly requested by the parties, to function as a fact finder.

(3) The fact finder may establish dates and place of hearings and shall conduct the hearings under rules established by the commission. Upon request, the commission shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearing, the fact finder shall make written findings of fact and recommendations for solution of the dispute and shall cause the same to be served on the parties and the commission. In making such findings and recommendations, the fact finder shall take into consideration among other pertinent factors the principles vital to the public interest in efficient and economical governmental administration. Cost of fact-finding proceedings shall be divided equally between the parties. At the time the fact finder submits a statement of his costs to the parties, he shall submit a copy thereof to the commission at its Madison office.

(4) Nothing herein shall be construed as prohibiting any fact finder from endeavoring to mediate the dispute at any time prior to the issuance of his recommendations.

(5) Within 30 days of the receipt of the fact finder's recommendations or within such time period mutually agreed upon by the parties, each party shall advise the other, in writing, as to his acceptance or rejection, in whole or in part, of the fact finder's recommendations and, at the same time, send a copy of such notification to the commission at its Madison office. Failure to comply with this subsection, by the state employer or employe representative constitutes a violation of s. 111.84 (1) (d) or (2) (c).

**111.89 STRIKE PROHIBITED.** (1) Upon establishing that a strike is in progress, the employer may at his option either seek an injunction or file an unfair labor practice charge with the commission under s. 111.84 (2) (e) or both. In this regard it shall be the responsibility of the department of administration to decide whether to seek an injunction or file an unfair labor practice charge. The existence of an administrative remedy shall not constitute grounds for denial of injunctive relief.

(2) The occurrence of a strike and the participation therein by a state employe do not affect the rights given to the employer to deal with the strike, including:

(a) The right to impose discipline, including discharge, or suspension without pay, of any employe participating therein;

(b) The right to cancel the reinstatement eligibility of any employe engaging therein; and

(c) The right of the employer to request the imposition of fines, either against the labor organization or the employe engaging therein, or to sue for damages because of such strike activity.

**111.90 MANAGEMENT RIGHTS.** Nothing in this subchapter shall interfere with the right of the employer, in accordance with this subchapter to:

(1) Carry out the statutory mandate and goals assigned to the agency utilizing personnel, methods and means in the most appropriate and efficient manner possible.

(2) Manage the employes of the agency; hire, promote, transfer, assign or retain employes in positions within the agency; and in that regard establish reasonable work rules.

(3) Suspend, demote, discharge or take other appropriate disciplinary action against the employe for just cause; or to lay off employes in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive.

**111.91 SUBJECTS OF BARGAINING.** (1) Matters subject to collective bargaining to the point of impasse are wage rates, as related to general salary scheduled adjustments consistent with sub. (2), and salary adjustments upon temporary assignment of employes to duties of a higher classification or downward reallocations of an employe's position; fringe benefits; hours and conditions of employment, except as follows:

(a) The employer shall not be required to bargain on management rights under s. 111.90, except that procedures for the adjustment or settlement of grievances or disputes arising out of any type of disciplinary action referred to in s. 111.90 (3) shall be a subject of bargaining.

(b) The employer shall be prohibited from bargaining on matters contained in sub. (2), except as provided under sub. (3).

(c) Notwithstanding any provision of law to the contrary, the employer shall be prohibited from bargaining the coverage, scope and content of health insurance and retirement until July 1, 1974. Demands relating to retirement, life insurance and health insurance shall be submitted to the employer at least one year prior to commencement of negotiations.

(2) Except as provided in sub. (3), the employer is prohibited from bargaining on:

(a) The mission and goals of state agencies as set forth in the statutes.

(b) Policies, practices and procedures of the civil service merit system relating to:

1. Original appointments and promotions specifically including recruitment, examinations, certification, appointments, and policies with respect to probationary periods.

2. The job evaluation system specifically including position classification, position qualification standards, establishment and abolition of classifications, assignment and reassignment of classifications to salary ranges, and allocation and reallocation of positions to classifications, and the determination of an incumbent's status resulting from position reallocations.

(c) Amendments to this subchapter.

(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 on the record and either affirmed, modified or reversed, and the personnel's board's action shall be subject to review pursuant to 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 under s. 16.05 (1).

**111.92 AGREEMENTS.** (1) Tentative agreements reached between the department of administration, acting for the executive branch, and any certified labor organization shall, after official ratification by the union, be submitted to the joint committee on employment relations, which shall hold a public hearing before determining its approval or disapproval. If the committee approves the tentative agreement, it shall introduce in companion bills, to be put on the calendar, that portion of the tentative agreement which requires legislative action for implementation, such as salary and wage adjustments, changes in fringe benefits, and any proposed amendments, deletions or additions to existing law. Such bills shall not be subject to ss. 13.10 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may, however, submit suitable portions of the tentative agreement to appropriate legislative committees for advisory recommendations on the proposed terms. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the committee's concurrence with the matters under consideration and which recommends the passage of such legislation without change. If the joint committee on employment relations does not approve the tentative agreement, it shall be returned to the parties for renegotiation. If the legislature does not adopt without change that portion of the tentative agreement introduced by the joint committee on employment relations, the tentative agreement shall be returned to the parties for negotiation.

(2) No portion of any tentative agreement shall become effective separately.

(3) Agreements shall coincide with the fiscal year or biennium.

(4) It is the declared intention under this subchapter that the negotiation of collective bargaining agreements and their approval by the parties should coincide with the overall fiscal planning and processes of the state.

**111.93 EFFECT OF LABOR ORGANIZATION: STATUS OF EXISTING BENEFITS AND RIGHTS.** (1) If no labor agreement exists between the state and a union representing a certified bargaining unit, employees in the unit shall retain the right of appeal under s. 16.24.

(2) All civil service and other applicable statutes concerning wages, hours and conditions of employment shall apply to employes not included in certified bargaining units.

(3) If a labor agreement exists between the state and a union representing a certified or recognized bargaining unit, the provisions of such agreement shall supersede such provisions of civil service and other applicable statutes related to wages, hours and conditions of employment whether or not the matters contained in such statutes are set forth in such labor agreement.

**111.94 COMMISSION RULES.** The commission may adopt reasonable and proper rules relative to the exercise of its powers and authority and proper rules to govern its proceedings and to regulate the conduct of all elections and hearings.

**111.95 COUNCIL.** The commission shall enlarge the council on employment relations to permit representation therein by officers or agents of the state, and officers or agents of organizations representing state employes for the purpose of collective bargaining.

**111.96 EFFECTIVE DATE: TRANSITIONAL PROVISIONS.** (1) **EFFECTIVE DATE.** This subchapter shall take effect upon passage and publication, subject to the following procedure.

(a) Collective bargaining under this subchapter shall not commence prior to July 1, 1972.

(b) The provisions of any agreement negotiated under this subchapter shall not become effective prior to July 1, 1973.

(2) **EXISTING AGREEMENTS, EXPIRATION AND EXTENSION.**

(a) The provisions of all collective bargaining agreements in effect on the effective date of this subchapter (1971) shall be extended without change to June 30, 1973, at which time all agreements shall expire.

(b) Any additional collective bargaining agreements negotiated under the provision of the prior law must be signed and ratified prior to July 1, 1972, and such agreements shall expire on or before June 30, 1973.

(3) Notwithstanding any other provision of the statutes, all compensation adjustments for state employes shall be effective on the beginning date of the pay period nearest the statutory or administrative date.

**111.97 TITLE OF SUBCHAPTER V.** This subchapter may be cited as the "State Employment Labor Relations Act".

**SECTION 101.** The change in the formula for budgeting for and in the distribution of merit increases provided for in SECTIONS 20 and 27 of this act shall take effect at the beginning of the fiscal year 1973.

**SECTION 102.** Members of the personnel board and of the state employes merit award board on the effective date of this act shall serve the remainder of their terms. Thereafter, appointments shall be made under sections 15.105 (3) and 15.105 (6), of the statutes, respectively.

**SECTION 103.** The rules of the personnel board in force under section 16.05 of the statutes on the effective date of this act, shall continue in effect until approved, modified or rescinded, pursuant to this act.

**SECTION 104. CROSS REFERENCES.** In the statute sections listed in column A, the cross references shown in column B are changed to the references in column C.

A	B	C
Statute section	Old cross reference	New cross reference
13.50 (4)	16.17 (4)	16.11 (2)
13.92 (1) (b) 3. e.	16.275 (6)	16.30 (4)
13.94 (intro.)	16.275 (6) (a) and (c)	16.30 (4) (a) and (e)
15.101 (6)	16.305	16.34
15.40 (2) (e)	16.275 (6) (a)	16.30 (4) (a)
16.30 (4) (d), as renumbered	pars. (a) and (an)	pars. (a) and (c)
20.505 (1) (a)	16.305	16.34
20.865 (1) (b)	16.305 (5)	16.34 (5)
20.923 (2)	16.105 (2) (a), (3) and (4)	16.086 (3)
41.08 (2) (a) and (3) (a)	16.276	16.26
45.365 (1)	16.105 (4)	16.086 (3)
45.50 (5)	16.276	16.26
46.03 (13)	16.105 (4)	16.086 (3)
59.07 (20)	16.055	16.295
97.42 (4) (f)	16.275 (6)	16.30 (4)
215.02 (16) (d) 1	16.275	16.30

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