

CHAPTER 63

COUNTY AND CITY CIVIL SERVICE

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COUNTY CIVIL SERVICE

63.01 County civil service commission; appointment; terms.

(1) There shall be a civil service commission in every county containing 500,000 inhabitants or more according to the last state or United States census and in all other counties the county board of supervisors may establish a civil service commission, called "commission" in ss. 63.01 to 63.16. Such commission shall consist of 5 members, all of whom shall be legal residents of the county. Appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of civil service. No person holding any elective or appointive public position or office of any sort in said county government shall be appointed thereon.

(2) The chairman of the board of supervisors of any such county, within 30 days after ss. 63.01 to 63.16 become applicable thereto, shall appoint the members of said commission, designating the

term of office of each. Such appointment and designation shall be subject to confirmation by the board of supervisors. Of the persons first appointed one shall hold for one year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years from the first day of January next following such appointment, and until his successor is appointed and qualifies. In the month of December of each year, immediately preceding the expiration of the term of office of any such commissioner, the board of supervisors shall elect one member of such commission to hold office for the term of 5 years, from the first day of January next succeeding his appointment and until his successor is elected and qualifies.

(3) Every person appointed a member of said commission shall take and file the official oath.

(4) Each member of the commission shall receive such salary as the county board shall determine, which shall not be less than \$200 for service performed in any one year. Such compensation shall be paid by the county

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treasurer on the certificate of the chief examiner, countersigned by the county auditor, if any.

Cross Reference: See 59.07 (20) for other authority to establish county civil service systems.

63.02 Rules; secretary; employes; offices.

(1) Such commissioners, as soon as possible after their appointment and qualification, shall prepare and adopt such rules and regulations to carry out the provisions of ss. 63.01 to 63.16, inclusive, as in their judgment shall be adapted to secure the best service for the county in each department affected by said sections, and as shall tend to promote expedition and speed the elimination of all unnecessary formalities in making appointments. Such rules shall be printed and distributed in such manner as reasonably to inform the public of the county as to their purpose, and shall take effect 10 days after they are published.

(2) Every commission may appoint a chief examiner who shall superintend any examinations held in the county under ss. 63.01 to 63.16 and perform such other duties as the commission may prescribe. The chief examiner shall be ex officio secretary of the commission, and, as such, he shall cause the minutes of its proceedings to be taken in shorthand and fully transcribed. The original transcribed copy shall be the official minutes of such proceedings and shall be open and available for public inspection. The secretary shall preserve all reports made to the commission, keep a record of all examinations held under its direction and perform such other duties as the commission may from time to time prescribe. The salary of the chief examiner, unless a greater amount is set by the board of supervisors, shall not exceed \$1,500. The commission may also appoint such clerical or other assistants as it may deem necessary and fix their salaries. All such appointments shall be made subject to ss. 63.01 to 63.16. The person holding the position of chief examiner, under the classified service, on June 16, 1974 shall continue in that capacity under civil service status until his death, resignation or removal from the position. Thereafter a director of personnel shall be appointed by the county executive in the unclassified civil service for a term of 4 years or less to be concurrent with the term of the county executive and subject to confirmation by the county board. An incumbent shall hold office until a new appointment is made by the county executive and confirmed by the county board.

(3) The board of supervisors in every county in which a commission is appointed shall provide suitable offices, furniture, stationery, light, heat, telephone and all other necessary supplies and

conveniences to enable the commission to perform its duties.

History: 1973 c. 262.

The federal age discrimination in employment act of 1967, as amended, does not invalidate the 35 year maximum age requirement for applicants for deputy sheriffs established by the Waukesha county civil service commission 63 Atty Gen 530.

63.03 Classification. (1) In every county in which a commission is appointed, pursuant to ss. 63.01 to 63.16, inclusive, all offices and positions in the public service in said county shall be divided into 2 classes, namely, the classified and the unclassified service. The unclassified service shall include:

- (a) All officials elected by the people.
- (b) All members of boards and commissions.
- (d) Court reporters of circuit court.
- (f) Undersheriff.
- (g) Deputy register of deeds.
- (h) Chief deputy clerk of the circuit court.
- (i) Deputy county clerk.
- (j) Deputy county treasurer.
- (k) Deputy coroner.
- (l) Deputy district attorneys.
- (m) Assistants and all members of the staff in the criminal department of the office of the district attorney, except employes engaged in clerical and stenographic work.
- (n) Investigators in the office of the district attorney, when authorized by the county board.
- (o) Students and interns in medical or professional specialties.
- (p) Residents in the medical specialties.
- (q) Members of the medical staffs of the various hospitals, sanatoriums, and other county institutions who are supplied by a medical school or medical societies without expense to or compensation from the county.
- (s) County executive.
- (t) Administrative secretaries to county executive.
- (u) Persons between the ages of 14 and 19 who perform part-time services of 20 hours per week or less under a work-creation program devised by the county.
- (v) Persons 16 years of age or older who perform training or services, or both, under a work experience program developed by the county or developed under federal auspices or sponsorship. Persons qualifying under this paragraph shall not be eligible for benefits under ch. 108.
- (w) Sergeant at arms to the county board.
- (x) Employes engaged in the operation of a public transportation system.

(2) All other offices and positions, however created or filled, shall be included in the classified service. Whenever a vacancy occurs in the position of department head under ss. 27.03

(2), 46.21 (2) (c), 59.07 (48), 63.02 (2) and 83.01 (1) the appointment shall be in the unclassified service.

History: 1971 c 154; 1973 c 12, 63, 262

63.04 Appointments; promotions and removals in classified service. On and after January first next succeeding the date when ss. 63.01 to 63.16, inclusive, become applicable in any county no person shall be appointed or promoted to, reduced in, transferred to or in, or removed from the classified service in any such county, except in accordance with the provisions of said sections.

63.05 Certifications; examinations; preference to veterans; temporary appointments. (1) When any appointing power in any such county learns that a vacancy has occurred, or is about to occur in any office or position in the classified service in his department, he shall forthwith notify the chief examiner of such fact. When an eligible list (containing the names of persons who have, within a period of time to be specified in the rules of the commission, passed an examination appropriate to the office or position in question) is in existence, the chief examiner shall certify to the appointing power the names of the three persons standing highest on that list. If more than one vacancy in the same class or position is to be filled, one additional name shall be certified for each additional vacancy.

(2) The commission shall impose no restrictions as to age in case of veterans and in the certification of eligibles, other conditions being equal, shall give preference to veterans of any of the wars of the United States, including the Korean or Viet Nam conflict. "Viet Nam conflict" means service in accordance with the dates specified in s. 45 35 (5) or as currently or subsequently defined by the congress of the United States or executive order. "Preference" means that whenever an honorably discharged veteran competes in any examination before the commission and passes the minimum grade he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein.

(3) The appointing power shall make selection to fill such vacancy or vacancies with reference solely to merit and fitness from the names certified, unless objection is made to one or more of the persons named and such objection is sustained by the commission, in which case the commission shall certify in addition the name next following upon the eligible list.

(4) If there is no such eligible list, the procedure shall be as follows: An examination shall be arranged for the earliest possible date to examine candidates relative to their fitness for said office or position. The time and place of such examination, together with the requirements of the position, and all other necessary information shall be sufficiently advertised by said commission in such manner as the commission shall by its rules determine as best suited to give notice of such examination.

(5) Pending the holding of such examination and the creation of an eligible list, the office or position in question may be filled temporarily by the appointing power, by an emergency appointment, subject to such rules and restrictions as the commission may adopt.

63.06 Rights of employes in military service. Any person in the classified service in any such county who is now or hereafter becomes an active member of the military or naval forces of the United States during a period officially proclaimed to be a national emergency or limited national emergency or under P.L. 87-117, shall be granted leave of absence, such leave to be continuous for the duration of the existing emergency or duty, plus 90 days. Service toward seniority or salary advancement shall be deemed not to be interrupted by such military service, provided that persons occupying a probationary status upon commencing such military leave shall revert to such status upon reinstatement. Application for reinstatement shall be made within 90 days from honorable discharge from the military service. Evidence of honorable discharge shall be presented to the civil service commission with such application. The position of the person so on leave shall not be filled except by appointment through the certification of the persons next eligible. Upon application of the person so on leave and presentation of evidence of such honorable discharge and of such evidence of physical fitness to perform the duties of the position formerly occupied as shall be satisfactory to the civil service commission he shall be reinstated in the position formerly occupied by him or in a position having similar character and standards of duties and compensation, if such military service was not for more than 4 years unless extended by law. The person appointed to fill such position during the absence of the person so on military leave shall, upon the latter's reinstatement, be transferred to a similar position if one is available, or if not, his name shall be placed on the appropriate reinstatement list in accordance with the rules of the civil service commission.

63.065 Elected county or state officers. A permanent employe in the classified service of any such county having a population of 500,000 or more, who is elected to a county or state office shall be granted a leave of absence without pay from his position for the period of his entire service as an elected county or state officer and thereafter 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. At the discretion of the civil service commission, any elected state officer, while on leave of absence, may also be permitted to return to his former position or to one with equivalent responsibility and pay in the classified service for such periods of time as may be set by said commission. This section shall not apply to any department head in the classified service whenever the commission has established a list of department heads or employes of any department of public welfare which functions under the authority of s. 49.51 (2).

63.07 Temporary appointments. (1) (a) When need exists for the filling of a position in the classified service for a period of not to exceed 6 months' duration, a temporary appointment shall be made for such period from the proper eligible list or as provided in s. 63.05 (5). Such temporary appointment may be extended once for not to exceed 6 months by resolution of the county board after receipt by it of a recommendation for such extension from the civil service commission. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the eligible register for permanent employment nor shall the period of service of any temporary appointment be counted as a part of the probationary service required after appointment to a permanent position.

(b) This subsection shall apply to a position created on a temporary basis or to a temporary appointment to a position created on a permanent basis. As to either of such methods of filling a position which has existed for more than one year on June 19, 1941, the county board shall within 60 days after said date provide for filling such position on a permanent basis or abolish the same.

63.08 Applications for and nature of examinations; eligible list; blind persons.

(1) All applicants for such examination shall have been residents of this state for one year prior to their application for examination, and may be required by the commission to prepare and file written application blanks giving such information, bearing upon their fitness for the office or

position in question, as the commission deems necessary; and provided further, that for technical and professional services, the commission may open the examination to residents of other states who are citizens of the United States; and provided further, that the commission shall not, for other services, be precluded from requiring longer periods of residence within the county for entrance to examinations. The commission may waive the requirements for one-year state residency and United States citizenship for applicants to be licensed in the health care field. Such application blanks need not be uniform for the different grades or classes of offices or positions, but the forms to be used shall be definitely specified in the rules of the commission. No questions pertaining to political affiliation or religious faith shall be asked of any applicant. The examination shall be such as to test fairly and practically the ability of each applicant to fulfill the requirements of the office or position in question. Wherever the commission believes it advisable it may substitute an actual demonstration by the applicant of his skill in performing the duties of the office or position for which he is applying in place and stead of a written test.

(2) Whenever the office or position is one in which the person to be appointed will hold a personal or confidential relation to the appointing power, the person having the power of appointment may be present at the examination for the purpose of advising the commission with relation to the relative personal fitness of the various candidates and this advice shall be given due weight in the markings of the applicant.

(3) The weights, if any, to be given to previous experience, training, age, written or demonstration test, oral test, and the various other phases or elements of the examination to which the applicant may be subjected, shall be provided for in advance by the rules of the commission. The names of the persons passing the examination shall be placed on an eligible list in the order of their final grades in the examination. Certification shall then be made as provided in s. 63.05.

(4) No otherwise qualified blind persons shall be discriminated against in examination, reexamination, appointment, reappointment, promotion or demotion unless eyesight is absolutely indispensable for the performance of the duties and responsibilities of the position.

(5) 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 commission the furnishing of an amanuensis or a reader when necessary, and the furnishing of a place to take such examination, or other similar

prerequisites to insure equality in such examination.

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

History: 1971 c. 232; 1975 c. 94

63.09 Efficiency records; promotions. The chief examiner, under the direction of the commission and with the advice of the heads of the departments involved, shall devise and introduce as rapidly and extensively as practicable a system of efficiency records to be based, among other things, upon the quantity and quality of the work performed and the regularity and punctuality of attendance. After such system is introduced, the various departments thereby affected shall maintain it. The chief examiner shall also, under the direction of the commission, prepare a classification of subordinate positions in accordance with their natural tendency to fit their incumbents to fill higher offices or positions in the service of the county. The commission shall provide in its rules that the efficiency records of an employe in one of the aforesaid positions shall be given due weight in the examination of such employe for higher offices or positions to which they naturally lead, to the end that such higher offices or positions in the service shall be filled as far as possible by promotion.

63.10 Demotion; dismissal; procedure.

(1) Whenever a person possessing appointing power in the county, the chief executive officer of a department, board or institution, the county park commission, county election commission, civil service commission, and county board of welfare as to officers and employes under their respective jurisdictions, believes that an officer or employe in the classified service in his or its department has acted in such a manner as to show him to be incompetent to perform his duties or to have merited demotion or dismissal, he or it shall report in writing to the civil service commission setting forth specifically his complaint, and may suspend the officer or employe at the time such complaint is filed. It is the duty of the chief examiner to file charges against any

officer or employe in the classified service upon receipt of evidence showing cause for demotion or discharge of such officer or employe in cases where a department head or appointing authority neglects or refuses to file such charges. Charges may be filed by any citizen against an officer or employe in the classified service where in the judgment of the commission the facts alleged under oath by such citizen and supported by affidavit of one or more witnesses would if charged and established amount to cause for the discharge of such officer or employe. The commission shall forthwith notify the accused officer or employe of the filing of such charges and on request provide him with a copy of the same. Nothing in this subsection shall limit the power of the department head to suspend a subordinate for a reasonable period not exceeding 10 days. In case an employe is again suspended within 6 months for any period whatever, the employe so suspended shall have the right of hearing by the commission on the second suspension or any subsequent suspension within said period the same as herein provided for in demotion or dismissal proceedings.

(2) The commission shall appoint a time and place for the hearing of said charges, the time to be within 3 weeks after the filing of the same, and notify the person possessing the appointing power and the accused of the time and place of such hearing. At the termination of the hearing the commission shall determine whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement, as it may deem requisite and proper under the circumstances and as its rules may provide. The decision of the commission shall be final. Neither the person possessing the appointing power nor the accused shall have the right to be represented by counsel at said hearing, but the commission may in its discretion permit the accused to be represented by counsel and may request the presence of an assistant district attorney to act with the commission in an advisory capacity.

The provision as to 10 days' suspension applies only to minor cases warranting intradepartmental discipline, not to serious charges referred to the civil service commission. State ex rel. Messner v. Milw. C. Civil S. Comm. 56 W (2d) 438, 202 NW (2d) 13.

See note to art. I, sec. 3, citing Herzbrun v. Milwaukee County, 504 F (2d) 1189, as to symbolic speech in challenge to discharge.

63.11 Standard scale of compensation.

The chief examiner, under the direction of the commission and in co-operation with the county clerk (or county auditor, if any) and with the heads of the various departments, shall devise and recommend to the board of supervisors a standardized scale of wages and salaries for all county offices and positions in the classified

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service, said scale to be graduated according to the duties performed, the length of service and efficiency records of the officers or employes, and the time of day or night such services are performed by the establishment of shifts. The supervisors shall consider and act in some way upon this scale at the last meeting of said board in the month of October next following its recommendation, and if adopted it shall go into effect on the first day of January following its adoption, or at such other date as may be provided by law.

63.12 Investigations; testimonial powers; witnesses. (1) Each member of the commission may subpoena witnesses, administer oaths, examine witnesses and compel the production of documents, records, and papers of all sorts in conducting such investigations as the commission may deem necessary or proper in order to ascertain whether or not the provisions of ss. 63.01 to 63.16, inclusive, are being carried into effect. The commission may examine such public records as it requires in relation to any such investigation. All officers and other persons in the civil service of the county shall attend and testify when required to do so by the commission.

(2) In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the circuit court of the county or the judge thereof, on application of any one of the commissioners, shall issue an order requiring such person to comply with such subpoena and to testify, or either, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(3) Each person, not in the civil service of the county, who appears before the commission by its order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in courts of record which shall be paid out of the appropriation to the commission. But no witness subpoenaed at the instance of parties other than the commission shall be entitled to witness fees or mileage unless the commission certifies that his testimony was relevant and material to the matter investigated.

63.13 Certification of payrolls. No payment for personal services of any officer or employe in the classified service of any county wherein ss. 63.01 to 63.16 are applicable shall be made by any county officer unless the commission has certified that the officer or employe claiming such payment is holding his position legally under the provisions of said ss. 63.01 to 63.16 and the rules of the commission. Such certification shall be required on each and every payroll for each and every office and position in the county

service, which is subject to the provisions of said ss. 63.01 to 63.16. County officers making payments in violation of this section shall be liable for the full amount thus paid and shall be deemed guilty of a violation of the provisions of said ss. 63.01 to 63.16, and subject to the penalties provided in s. 63.17.

See note to 63.02, citing 63 Atty. Gen. 530

63.14 Prohibited Influences and practices. (1) Except as provided otherwise by s. 63.05 (2), no factor or influence other than the fitness of a person to perform the duties of the office or position in which he is acting or employed, or to which he is seeking appointment, shall affect the determination of appointments, promotions, transfers, suspensions or discharges with respect to any office or employment within the scope of ss. 63.01 to 63.16, inclusive.

(2) The following practices are especially forbidden in any county wherein ss. 63.01 to 63.16, inclusive, are applicable: Pernicious political activity by any county officer or employe in the classified service; the giving of any consideration, whether financial or otherwise, in return for appointment to an office or position in the service of said county; the obstruction or deceiving of any person desiring to take an examination under the provisions of said sections, or desiring to secure information concerning any such examination; the deliberate mismarking or miscalculation of grades of any applicant taking an examination under said sections; the impersonation by any person of any other person in connection with the holding of any examination under said sections; and the giving to or receiving by candidates for examination information or assistance enabling such candidates to obtain an unfair or improper advantage over other candidates for the same examination.

(3) No county specified in s. 63.01 or any department, officer or employe thereof shall hire or employ a person, subject to civil service in such county, at a wage or salary less than that advertised by the civil service commission of such county for the position to be filled, nor shall such county, department, officer or employe pay, or cause to be paid, salaries or wages of different amounts to persons in the same classification and stage of advancement, unless such difference in salaries or wages shall be based on difference of work performed or the time of day or night of performance of work; provided that where there has been a general reclassification of title and compensation of positions the county board is authorized to provide by ordinance that persons having civil service tenure at the effective date of such reclassification and occupying positions which have been reclassified, so as to result in a

decrease in compensation, may continue to serve under the position title as it existed prior to such reclassification and receive the compensation thereof according to the former range during their tenure, and in the event that such general reclassification shall result in a position being reclassified to a higher grade, and the present incumbent of such position shall not have or by examination attain eligibility for certification to such higher grade, the status and compensation of such incumbent shall be retained by him during his tenure of such position in conformity with civil service.

(4) The county board of any county specified in s. 63.01 is authorized to provide by ordinance the establishment of wage or salary differentials to collect shift differentials within one classification based upon the time of day or night of the performance of work.

63.15 Existing officers and employees, how affected. All persons included within the classified service of any county, at the time ss. 63.01 to 63.16, inclusive, go into effect therein, appointed for a definite term, shall be required to take examinations under said sections as soon as practicable after the expiration of such definite term, except persons who have been on the payrolls of such county continuously for the 4 years immediately preceding the date upon which said sections go into effect in said county; and except that all such persons being in service and on the payroll of said county less than four years preceding such date shall, in order to retain their offices or positions, be required to take a noncompetitive examination, and shall retain their offices or positions, unless upon such examination they be found and determined by said board to be insufficiently qualified. The foregoing provisions do not, however, prevent suspension, demotion or discharge of any officer or employe subject to the provisions of ss. 63.01 to 63.16, inclusive, in the manner provided in s. 63.10.

63.16 Appropriation for commission. A sufficient sum shall be provided each year by the county board of supervisors of each county in which ss. 63.01 to 63.16, inclusive, become operative to enable the commission created thereunder, to exercise the powers and perform the duties therein specified.

63.17 Violations, county civil service. Any person who wilfully, or through culpable negligence, violates any provisions of ss. 63.01 to 63.16, or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than \$50 nor

more than \$1,000, or by imprisonment in the county jail for a term of not less than 30 days, nor more than one year or by both such fine and imprisonment in the discretion of the court.

MILWAUKEE CITY

63.18 Milwaukee city commission; appointment; terms. The mayor of each city of the first class, in this state, whether such city be incorporated by special act of the legislature or under the general laws of the state, shall, before the fifteenth day of June following the passage of this act, or the fifteenth day of June in the year next following the first state or national census, showing such city to belong to said first class, appoint 5 persons, citizens and residents of said city, who shall constitute and be known as the board of city service commissioners of such city, and shall designate one of the persons so appointed to serve for a term of 5 years, one for a term of 4 years, one for a term of 3 years, one for a term of 2 years, and one for a term of one year, from the first Monday of July in the year of their appointment and until their respective successors are appointed and qualified; provided, however, that in cities having a board of city service commissioners the members of such board shall hold office and continue to be a member of such commission until the expiration of the term or terms of such member or members, and in each and every year after such first appointment, the mayor shall, in like manner, in the month of June, appoint one person as the successor of the commissioner whose term shall expire in that year, to serve as such commissioner for 5 years from the first Monday of July then next ensuing, and until his successor is appointed and qualified. The commission shall, at a meeting in July of each year, elect one member to act as president and one member to act as vice president, each for a term of one year, and until a successor is duly elected. Three commissioners shall constitute a quorum necessary for the transaction of business. Any vacancy in the office of commissioner occurring during the term shall be filled for the unexpired term by appointment by the mayor and all appointments, both original and to fill vacancies, shall be so made that not more than 2 commissioners shall at the time of the appointment be members of the same political party. Said commissioners shall hold no other lucrative office or employment under the United States, the state of Wisconsin, or any municipal corporation or political division thereof, and each commissioner shall before entering upon the discharge of the duties of his office and within 10 days after receiving notice of his appointment, take and subscribe the oath of office prescribed by the constitution of this state,

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and file the same, duly certified by the officer administering it with the clerk of his city.

63.19 Duties and powers of board. It shall be the duty of every board of city service commissioners appointed under and in pursuance of the provisions of this act to investigate the enforcement of said act and of its rules, adopted in accordance with its provisions to carry out the purposes of said act and the action of the examiners in said act provided for, and the conduct and action of the appointees in the official service in its city, and may inquire as to the nature, tenure and compensation of all offices and places in the public service thereof. In the course of such investigation each commissioner shall have power to administer oaths, and said board shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation. Said commission shall have power to investigate the character and standing in the community of all applicants for examination and appointment in the city service under the provisions of this act.

63.20 Compulsory attendance and fees of witnesses. Any person who shall be served with a subpoena to appear and testify or to produce books and papers, issued by the board of city service commissioners in the course of any investigation conducted under the provisions of this act, and who shall refuse or neglect to appear and testify or to produce books and papers relevant to such investigation, as commanded in such subpoena, shall be guilty of a misdemeanor, and shall on conviction be punished by a fine or imprisonment or both in the discretion of the court, as provided in and by this act. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this state, and shall be paid from the appropriation for the expenses of the board. Any circuit court of this state or any judge thereof, whether in term time or vacation, upon application of the board, may compel the attendance of witnesses, the production of books and papers and giving of testimony before the board by attachment for contempt or otherwise, in the same manner as the production of evidence may be compelled before said court. Every person, who having taken an oath or made affirmation before a commissioner in the course of such an investigation, shall swear or affirm wilfully, corruptly and falsely, shall be guilty of perjury, and upon conviction shall be punished accordingly.

63.21 Annual report. Said board of commissioners shall, on or before the fifteenth day of

March in each year, make to the mayor for transmission to the common council of such city, a report showing its own action, the rules in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act. The mayor may require a report from said board at any other time.

63.22 City and its officers to co-operate in carrying out the law. All officers of any such city shall aid said board in all proper ways in carrying out the provisions of this act, and at any place where examinations are to be held, shall allow the reasonable use of the public buildings for holding such examinations. The mayor of each city shall cause suitable rooms to be provided for said board at the expense of such city, and a sufficient sum of money shall be appropriated each year by each city to carry out the provisions of this act in such city.

63.23 Classification of offices. (1) The city service commission shall classify all offices and positions in the city service, excepting those subject to the exemptions of s. 63.27, according to the duties and responsibilities of each position. Classification shall be so arranged that all positions which in the judgment of the commission are substantially the same with respect to authority, responsibility and character of work are included in the same class. From time to time the commission may reclassify positions upon a proper showing that the position belongs to a different class.

(2) The city service commission may, if it sees fit, receive any expert study or recommendation of the classification, allocation and compensation of offices and positions in the service of the city and transmit the same, with or without the commission's recommendations, to the common council. Any such report shall become effective when approved by the common council.

63.24 Commission to make rules. The said commissioners shall make such rules adapted to carry out the purposes of the act and not inconsistent with its provisions, as in their judgment shall be adapted to secure the best service for the city in each department affected by said act, and as shall tend to promote expedition and speed the elimination of all unnecessary formalities in making appointments. All rules so made shall be subject to the approval of the mayor of the city, and they may with like approval be from time to time altered or rescinded by said commissioners; however, if the mayor takes no action on a rule or an amendment to the rules, submitted to him, within a period of 10 days from the date of its submission, then the

rule or amendment to the rules shall become effective as though approved by the mayor. The said commissioners shall supervise the administration of rules so established.

63.25 Rules, what to require. (1) The rules mentioned in this act shall provide among other things for the following:

(a) For open, competitive examinations and for other examinations by which to test applicants for office or for employment as to their practical fitness to discharge the duties of the positions which they desire to fill, which examinations shall be public and free to all persons with proper limitations as to citizenship, residence, age, health, habits and moral character.

(b) For the filling of vacancies in offices and places of employment in accordance with the results of such examinations, and for the selection of persons for public employment in accordance with such results, or otherwise, as may seem most desirable to carry out the provisions of this act.

(c) For the promotions in offices or positions on the basis of ascertained merit and seniority in service, or by examination, or by both, as may seem desirable.

(d) For a period of probation before an appointment or employment is made permanent. During or at the end of such probationary period the appointment may be terminated by the commissioners after investigation, or the appointing officer or board may terminate same, but in case of termination by the appointing officer or board the commission may, under its general investigative powers, review the circumstances and take such action as may in its judgment seem desirable for the best interests of the service. Nothing herein shall be construed to confer on any officer or employe a right of appeal as provided in s. 63.43 during or at the end of his probationary period.

(2) All rules made as provided in this act and all changes therein shall forthwith be printed for distribution by said board.

History: 1975 c. 94.

63.26 Appointments to conform to rules.

From and after the adoption of such rules, all appointments to subordinate offices, positions and employments in the several departments of the service of such city, which are subject to such rules, shall be made by the respective heads of such departments under and in conformity with the provisions of such rules.

63.27 Rules not applicable to certain officers. Officers who are elected by the people, or who by the statutes are required to be elected

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by the city council, inspectors and clerks of election, one deputy in each department whose office was created and exists by reason of statute, the superintendent and teachers of schools, the members and secretary-business manager of the board of school directors, staff of the board of school directors if the board so decides pursuant to s. 119.18 (10) (c), heads of principal departments of the city, all members of the law, fire and police departments, one private secretary of the mayor and any other officers, clerks or employes in the service of the city whose positions, in the judgment of the city service commissioners, cannot for the time being be subjected, with advantage to the public service, to the general rules prepared under this chapter shall not be affected as to their election, selection or appointment by such rules made by said commissioners.

History: 1973 c. 16.

63.28 Civil service to include stenographic and clerical employes in the office of the city attorney.

The expression "members of the law, fire and police departments" as used in s. 63.27 and as used in any charter ordinance in any city of the first class which may supersede, amend, extend or modify said section for said city, shall be held to include all employes of the law department of such city who are members of the bar engaged in legal duties but shall not be held to include clerks, stenographers, typists or other employes of the law department who are not members of the bar.

63.29 Civil service for attorneys in office of city attorney.

(1) In any city of the first class the common council may by ordinance provide for civil service in the office of the city attorney except for the city attorney and his deputy.

(2) The matters treated in this section are declared to be of local and not state-wide concern.

63.30 Personnel director; selection, duties.

In a city of the first class, the board of city service commissioners shall select a city personnel director under and pursuant to the civil service law applicable to such city. He shall be secretary of the board and its chief executive and administrative officer, and he shall, subject to its direction and control, administer the city civil service law and rules and the personnel statutes and ordinances governing city service employment, direct and co-ordinate the work and staff of the board, act as liaison officer between the board and the several departments, bureaus, boards and commissions and perform such other duties as the board may direct.

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63.31 Funds for board. The common council of any city of the first class shall hereafter provide such funds for the annual support and operation of the board of city service commissioners as in its judgment may be necessary for the purpose of carrying out all of its functions, duties and responsibilities assigned to it by law or by the common council. The procedure applicable to appropriations and disbursements of such board shall be determined as provided in ch. 65.

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

Such findings shall be conclusive as to the physical qualifications of any applicant or eligible so examined.

63.33 Examinations reasonable. The examinations held under this act shall consist of any reasonable and impartial method of ascertaining the fitness or relative merit of candidates. 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 civil service commission the furnishing of an amanuensis or a reader when necessary, and the furnishing of a place to take such examination, or other similar prerequisites to insure equality in such examination.

63.34 Notice of examinations. Notice of the time, place and general scope of every examination shall be given by the board by publication of a class 3 notice, under ch. 985, and such notice shall also be posted by said board in a conspicuous place in its office at least 10 days before such examination. Such further notice of examinations may be given as the board shall prescribe.

63.35 Application, contents. Every application, in order to entitle the applicant to appear for examination, or to be examined, must state the facts under oath on the following subjects: (1) Full name, residence and post-office address; (2) citizenship; (3) age; (4) place of birth; (5) health and physical capacity for the public service; (6) previous employment in the public service; (7) business or employment and residence for the previous five years; (8) education. Such other information shall be furnished by the applicant as may reasonably be required by the board concerning the applicant's fitness for the public service.

63.36 Appointment of examiners; compensation. (1) The board shall control all examinations, and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the city, to be examiners, and it shall be the duty of such examiners to make return or report thereof to such board. The board may, at any time, substitute any other person, whether or not in such service, in the place of any one so selected; and the board may themselves, at any time, act as such examiners, and without appointing examiners. The examiners, at any examination, shall not all be members of the same political party, and no person shall serve in an examination of candidates for office under the provisions of this act in case of a relative or

connection by marriage within the degree of first cousin.

(2) Persons in the service of the city shall not be compensated for acting as examiners if they are public officers or if their service as examiners is rendered during their paid working schedule, but the board may compensate employees of the board of school directors for serving as city service examiners beyond their regular working hours and beyond their regular duties as such employees.

History: 1971 c. 154.

63.37 Board to keep a register of eligibles.

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

63.38 Persons examined not to be obstructed, aided or impersonated.

No person or officer shall wilfully and corruptly, by himself or in co-operation with one or more other persons, defeat, deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing or wilfully or corruptly make any false representations concerning the same or concerning the person examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose either of improving or injuring the prospects or chances of any person so examined, or to be examined, of being appointed, employed or promoted, or personate any other person, or permit or aid 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.

63.39 Vacancies, how filled. Whenever a position classified and graded under the provisions of this act becomes vacant, the appointing officer shall have the discretion to fill the position or to let it remain vacant. If the appointing officer chooses to fill the vacant position, the appointing officer may, with the approval of the commission, fill it through reinstatement, promotion, reduction or open competitive examination. If the appointing officer chooses not to or does not fill the vacant position by reinstatement, promotion, or reduction, the commission shall thereupon certify to the appointing officer from the list of eligibles the names and addresses of the 3 persons standing highest thereon, in accordance with requirements established by the commission. When there are less than 3 names upon an eligible list, certification shall be made and, unless objection is made by the appointing officer to the person or persons so certified and the objection sustained by the commission, appointment shall be made under the rules. In case of more than one vacancy, an additional name shall be certified for each such vacancy. The appointing officer shall select, solely with reference to merit and fitness, the number of persons for which the appointing officer has made requisition. In case the commission cannot certify eligibles for appointment, it may grant to the appointing officer authority to make appointment for a period not to exceed 2 months, or until regular appointment can be made.

History: 1975 c. 330, 421.

63.40 Special expert class. (1) There is hereby created a new division of the classified service to be known as the special expert class. The board of city service commissioners shall place in this class all positions of a technical, scientific, or professional character, together with all positions where the qualifications are peculiar to the service in any department of the city government, and may in addition thereto temporarily classify as of the special expert class positions where the service is new and experimental in character.

(2) The provisions of the city civil service act now governing selections, appointments, promotions, reinstatements, removals, transfers or other changes, shall apply to the special expert class, except as may be otherwise provided in this section.

(3) For the filling of positions in the special expert class the appointing officer shall be free to suggest names of persons for consideration in examination together with all other applicants and all other persons whose names have been

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suggested to the board of city service commissioners, and the board shall inquire into the fitness of persons so nominated and may notify such persons and any other suitable person to participate in the examination.

(4) Previous to an examination to fill a position in the special expert class, the board of city service commissioners may provide in its published announcement that the resulting eligible list shall expire as soon as an appointment has been made therefrom, providing the appointing officer so desires. When an appointing officer makes objection in writing to names of persons in the special expert class, certified from an eligible list not especially appropriate for the position or group of positions in question, such certification shall be invalid.

(5) The appointing officer shall in all cases be consulted as to qualifications and requirements, examination standards, and procedure for filling positions in the special expert class.

(6) In filling positions in the special expert class the board of city service commissioners shall select a board of one or more experts to conduct the examination when requested in writing to do so by an appointing officer.

(7) Whenever the board of city service commissioners or the officer having the power of appointment shall deem it advisable in the interests of the service, no qualifications as to residence or citizenship shall be imposed in the examination for a position in the special expert class. Any restrictions contained in any law, or in any charter of any city of the first class inconsistent with this provision shall not be applicable in such case.

63.41 Vacancies in special cases, how filled. In case of a vacancy in a position, requiring peculiar and exceptional qualifications of a scientific, technical or professional character, upon satisfactory evidence that competition is impracticable and that the position can be best filled by the selection of some designated person of recognized attainments, the commission may, after public hearing, by the affirmative vote of at least 4 commissioners, suspend competition, but no such suspension shall be general in its application to such position and all such cases of suspension shall be reported, together with the reason therefor, in the annual reports of the commission.

63.42 Notice to commissioners of all appointments, and of all offices abandoned. Immediate notice in writing shall be given by the appointing power to said board of city service commissioners of all appointments, permanent or temporary, made pursuant to this act and the rules made and established under the

same, in those branches or departments of the civil service of such city which are subject to this act and the rules of said board, and of all transfers, promotions, resignations, other changes or vacancies from any cause in such branches or departments of the city service, and of the date thereof, and a record of the same shall be kept by said board. When any office or place of employment, subject to such rules, is created or abolished, or the compensation attached thereto is altered, the officer or board making such change shall immediately report the same in writing to said board of commissioners.

63.43 Removals for just cause only; reasons to be furnished in writing; hearings; decisions. (1) No person or employe holding an office or position classified and graded under the provisions of this act shall be removed, discharged or reduced, except for just cause which shall not be political or religious. A person removed, discharged or reduced shall be furnished, by the officer making the removal, with the reasons in writing, for such action when demanded by said removed, discharged or reduced person. When reasons are given by the officer making the removal, a copy of the same shall be immediately forwarded to the commission. Within 3 days after such removal, discharge or reduction an appeal may be made to the commission in writing, by the employe so removed, discharged or reduced. The commission, on receiving such notice of appeal, shall set a date for a hearing on or investigation of the reasons for the removal, discharge or reduction, which date shall not be more than 30 days after the date of removal, discharge or reduction. Notice of the time and place of such hearing or investigation shall be served upon the employe appealing, in the same manner that a summons is served in this state. Notice shall also be given the officer making the removal. The city service commission, or board or committee of such board or boards appointed by said commission, shall conduct the hearing or investigation. The employe appealing shall have full opportunity to be heard and may, at the discretion of the commission, be represented by counsel. When the employe is represented by counsel, the officer making the removal, discharge or reduction may be represented by the city attorney. If, however, such officer chooses to be represented by counsel other than the city attorney, he may so do, but any expense so incurred shall not be paid by the city. In the course of a hearing or investigation as herein provided for, any member of the commission and of any board or committee appointed by it, shall have the power to administer oaths and shall have power to secure by its subpoena both the attendance and

testimony of witnesses and the production of books and papers relevant to such hearing or investigation. All evidence may, on the order of the board, be taken by a competent reporter.

(2) The decision and findings of the commission, or of the investigating board or committee, when approved by the commission, shall be final and shall be filed, in writing, with the secretary of the board and shall be forthwith certified to and enforced by the head of the department or appointing officer. Nothing in this act shall limit the power of an officer to suspend a subordinate for a reasonable period not exceeding 15 days. In case an employe is again suspended within 6 months for any period whatever, the employe so suspended shall have the right of hearing or investigation by the commission on the second suspension or any subsequent suspension within said period, the same as herein provided.

63.44 Provisions for removals not to apply to certain departments. The provisions of the above section shall not apply to removals of persons in any department of the city where such department is under the supervision and control of a board or commission of three or more members, but every such board or commission shall establish rules relating to the removal, discharge or reduction of employes in its department; provided, however, that no such employe shall be removed, discharged or reduced for religious or political reasons and any removed, discharged or reduced employe shall have the right to a trial and determination by such board or commission, or by a committee duly appointed by said board or commission as to whether there existed sufficient grounds for his removal, discharge or reduction and the determination of such board or commission, or of the committee when approved by the board or commission, shall be final in the matter. The right of suspension is granted boards and commissions included under this section the same as is elsewhere provided for in this act.

63.45 No payments approved or made of salary in the classified service except as provided. No treasurer, auditor, comptroller, or other officer or employe of the city in which this act is effective shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services, to any person in the classified service unless a payroll, estimate, or account for such salary, wage or other compensation, containing the names of persons to be paid, a statement of the amount to be paid each such person, the services on account of which the same is paid, bears the certificate of the

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commission that the persons named in such payroll, estimate, or account have been appointed or employed in pursuance of and have complied with the terms of this act and with the rules of the commission, and that the rate of salary or wage is in accordance with the rate established by the proper authorities. The commission shall refuse to certify the pay of any public officer or employe who shall wilfully or through culpable negligence violate or fail to comply with this act or the rules of the commission. The city service commission shall certify to the city comptroller all appointments to offices and places in the office of the city service commission and all changes or vacancies that may occur therein.

63.49 No promotion or demotion for making or refusing political contributions. No officer or employe of such city shall discharge, or degrade, or promote, or in any manner change the official rank or compensation of any other officer or employe, or promise or threaten to do so for giving or withholding any contribution of money or other valuable thing for any party or political purpose, or for refusal or neglect to render any party or political service.

63.50 Use of money prohibited. No applicant for appointment in such official service, either directly or indirectly, shall pay or promise to pay any money or other valuable thing to any person whomsoever, for or on account of his appointment or proposed appointment, and no officer or employe shall pay or promise to pay, either directly or indirectly, to any person any money or other valuable thing whatsoever for or on account of his promotion.

63.51 The improper use or promise of political influence forbidden. No person while holding any office in the government of such city, or any nomination for, or while seeking a nomination for appointment to any such office, shall corruptly use, or promise to use, either directly or indirectly, any official authority or influence in the way of conferring upon any person, or in order to secure or aid any person in securing, any office or public employment or any nomination, confirmation, promotion or increase in salary, upon the consideration or condition that the vote or political influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration.

63.52 Violations, city civil service; vacancies office; disqualification; prosecution. (1) Any person who wilfully, or through culpable

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negligence, violates any provision of ss. 63.18 to 63.51, or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than \$50, and not exceeding \$1,000, or by imprisonment in the county jail for a term not exceeding 6 months, or by both such fine and imprisonment in the discretion of the court.

(2) If any person is convicted under this section, any public office which such person holds shall, by force of such conviction, be rendered vacant, and such person shall be incapable of holding office for the period of 5 years from the date of such conviction.

(3) Prosecution for violations of ss. 63.18 to 63.51 may be instituted either by the attorney general, the district attorney for the county in which the offense is alleged to have been committed, or by the board of city service commissioners acting through special counsel. Such prosecutions shall be conducted and controlled by the prosecuting officers who institute them, unless they request the aid of other prosecuting officers.

63.53 Board of school directors employees. All officers and employes of the board of school directors of any city of the 1st class with the exceptions hereinafter set forth, shall be selected and have their tenure and employment

status determined in accordance with ss. 63.18 to 63.51 and the rules adopted thereunder and the charter ordinances applying to the board of city service commissioners of each such city, such exceptions to include the following employes who shall not be members of the classified service: superintendents, secretary-business manager of the board of school directors, assistant superintendents, principals, teachers and substitute teachers actually engaged in teaching, high school librarians who qualify under s. 42.70 (2) (q) 2 but not including assistant or clerk-librarians, staff of the board of school directors if the board so decides pursuant to s. 119.18 (10) (c), and, in any department of any such school board devoted wholly or principally to the subjects of municipal recreation and adult education, all employes of such department whose duties are peculiar thereto but not including employes whose duties are clerical or custodial.

History: 1971 c 152 s. 38; 1973 c 16.

MILWAUKEE SHERIFFS' RETIREMENT

63.98 Fund abolished; assets, obligations and participants transferred. On July 9, 1969, the sheriff's annuity and benefit fund created under this act is abolished in accordance with chapter 201, laws of 1937, section 23.