

MAR 27 2001



WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-017

AN ORDER to repeal and recreate chapter ERC 33, Appendices A, B and C, relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

Submitted by **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

- 02-20-01 RECEIVED BY LEGISLATIVE COUNCIL.
- 03-20-01 REPORT SENT TO AGENCY.

RS:RW:rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

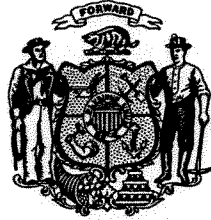
Comment Attached YES NO

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CLEARINGHOUSE RULE 01-017

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The agency may wish to clarify in the rule the intended applicability of the rule's provisions. The fiscal note refers to an applicability date, but none appears in the rule.

b. In paragraph 12 of Form A on page 3, should the number "9" be replaced by the number "5"?

PROPOSED ORDER OF THE
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

The Wisconsin Employment Relations Commission proposes an order to repeal and recreate ERC 33, Appendices A, B and C relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

Sections 111.70(4)(cm)8, 111.71(1), and 227.24(1), Stats., give the Commission the authority to repeal and recreate these proposed administrative rules.

The proposed repeal and recreation of ERC 33, Appendices A, B and C is required by 1999 Wisconsin Act 9's amendment of the statutory definition of a qualified economic offer in s. 111.70(1)(nc)1.c., Stats., and the ruling of the Wisconsin Court of Appeals in *Racine Education Ass'n v. WERC*, 238, Wis.2d 33 (2000).

As recreated, ERC 33, Appendices A, B and C will allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor organization representing the district's professional employees as part of a qualified economic offer. As recreated, ERC 33, Appendices A, B and C implement (1) the statutory requirement that salary increases due to a promotion or the attainment of increased professional qualifications are not part of a qualified economic offer; and (2) the ruling of the Court in *Racine Education Ass'n v. WERC* that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

SECTION 1. ERC 33 Appendices A, B and C are repealed and recreated to read:

EMPLOYMENT RELATIONS COMMISSION

Chapter ERC 33

APPENDIX

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

QUALIFIED ECONOMIC OFFER CALCULATION

FORM A

This form and Form B must be provided by the district to the labor organization 60 days prior to contract expiration, or whenever a qualified economic offer is made, whichever is earlier.

DEVELOPING A QUALIFIED ECONOMIC OFFER

Developing Employee Base

1. Identify all school district professional employees (as defined by Sec. 111.70(1)(ne), Stats.) who were represented by the labor organization for the purposes of collective bargaining and contract administration on the 90th day prior to the expiration of the current/most recently expired bargaining agreement. School district professional employees who were employed on the 90th day but who thereafter retire, resign or are terminated prior to the expiration of the current/most recently expired contract are included. School district professional employees on layoff, sick leave or leave of absence must be included if they continue to be represented by the labor organization for the purposes of collective bargaining and contract administration. School district professional employees who are replacing employees who are in leave status are not included unless they are represented by the labor organization for the purposes of collective bargaining and contract administration in the same bargaining unit as the employee being replaced.

Developing Fringe Base

2. Identify all fringe benefits and your percentage contribution toward the cost thereof as such benefits and contributions existed on the 90th day prior to the expiration of the current/most recently expired agreement, or the 90th day prior to the date on which your negotiations actually commenced if there is no previous collective bargaining agreement between the parties. If your fringe benefit contribution level is expressed as a dollar amount, convert the dollar amount to a percentage for the purposes of this calculation.

Total Base Cost Calculation

3. Using the employees identified in Step 1 and the fringe benefits and employer percentage contribution levels identified in Step 2, complete Form B to calculate the employer cost of

compensation and fringe benefits for the year preceding the expiration date specified in your current/most recently expired contract. For the purposes of this calculation, assume that any cost increase incurred during the year was in effect for the entire year. In your calculation, you must include the cost of any benefits Step 1 employees who retire will receive/received prior to the expiration of your current/most recently expired contract. Do not include the cost of providing benefits to employees who retired before the 90th day prior to the expiration of the current/most recently-expired contract.

Enter the total base year salary and fringe benefit costs from Form B here.

Salary _____

Fringe _____

Total _____

QEO 1 Dollar Amounts

4. Calculate 3.8%, 2.1% and 1.7% your Step 3 total and enter here

3.8% = _____ 2.1% = _____ 1.7% = _____

For the purposes of the following calculations, *do not* assume any change in: (1) the identity of Step 1 employees; (2) the level of service they provide to the district or (3) the fringe benefits Step 1 employees received or the applicable employer % contribution level. *Do* assume that any cost increase incurred during the year was in effect for the entire year.

QEO 1 Fringe Benefit Calculation

5. Using the same employees identified in Step 1 and the fringe benefits and employer percentage contribution levels identified in Step 2, calculate the actual employer cost of maintaining the fringe benefits and employer percentage contribution levels for the first 12-month period following the stated expiration date in the current/most recently expired contract. If your contract will have a duration of less than 12 months, prorate your cost calculation to reflect your actual contract duration, if appropriate. **Enter this cost here and on Form B, QEO 1, fringe benefit cost.** _____

6. Subtract your Step 3 base fringe benefit cost from your Step 5 cost and calculate the result as a percentage of your total Step 3 base year cost. **Enter the result here and on Form B, QEO 1, fringe benefit percentage.** _____

QEO 1 Step Calculation

7. For the first 12-month period following the stated expiration date in the current/most recently expired contract, calculate the total additional cost of providing each employee identified in

Step 1 with any salary increase to which they would be entitled by virtue of an additional year of service on the salary schedule (longevity is to be included if part of salary schedule). **Enter this cost here and on Form B, QEO 1, Step Advancement** _____.

8. Calculate your Step 7 cost as a percentage of the total Step 3 base year cost. **Enter the result here.** _____

End of first year QEO calculation

If you are bargaining a contract with a duration of 12 months or less, stop and proceed to the Qualified Economic Offer Instruction, Form C.

Start of second year QEO calculation

Total QEO 1 Base Cost Calculation

9. Repeat Step 3 for the first 12-month period following the stated expiration date of your current/most recently-expired contract. **Enter the total QEO 1 salary and fringe benefit costs from Form B here.**

Salary _____

Fringe _____

Total _____

QEO 2 Dollar Amounts

10. Calculate 3.8%, 2.1% and 1.7% of your Step 9 total and enter here:

3.8% = _____ 2.1% = _____ 1.7% = _____

QEO 2 Fringe Benefit Calculation

If your contract will have a duration of less than 24 months, prorate your QEO 2 cost calculation to reflect your actual contract duration, if appropriate.

11. Repeat Step 5 for the second 12-month period following the stated expiration date in the current/most recently expired contract. **Enter this cost here and on Form B, QEO 2, fringe benefit cost** _____.

12. Subtract your Step 9 fringe benefit cost from your Step 11 cost and calculate the result as a percentage of your Step 9 total QEO 1 cost. **Enter the result here and on QEO 2, Form B, fringe benefit percentage** _____.

13. Repeat Step 7 calculation for the second 12-month period following the stated expiration date in the current/most recently-expired contract. **Enter the cost here and on Form B, QEO 2, Step Advancement.** _____.

14. Calculate your Step 13 cost as a percentage of your Step 9 total QEO 1 cost. **Enter the result here** _____.

Proceed to the qualified economic offer instruction Form C.

5?

FORM B

This Form and Form A must be provided by the district to the labor organization 60 days prior to contract expiration, or whenever a qualified economic offer is made, whichever is earlier.

Salary	Base Year	QEO1 1/	QEO2 1/
Salary Schedule	_____	_____ 2/	_____ 3/
Additional Step Advancement	_____ XXXX	_____	_____
Additional QEO Salary Schedule Cost	_____ XXXX	_____	_____
Salary Subtotal	_____	_____	_____
Longevity (include here if not on salary schedule)	_____	_____	_____
Extended Contracts	_____	_____	_____
Co-Curricular Pay	_____	_____	_____
Extra Duty Pay	_____	_____	_____
Athletic Events	_____	_____	_____
Department Head	_____	_____	_____
Curricular Work	_____	_____	_____
Overload Pay	_____	_____	_____
M-Team	_____	_____	_____
IEP	_____	_____	_____
Supervision	_____	_____	_____
Other _____	_____	_____	_____
Total Extra Duty Pay	_____	_____	_____
Summer School	_____	_____	_____
Severance Pay	_____	_____	_____
Sick Leave Payout	_____	_____	_____
Other _____	_____	_____	_____
Total Salary Cost	_____	_____	_____

¹ The QEO1 and QEO2 salary costs will remain the same as the base year costs for longevity (if not a step), extended contracts, co-curricular pay, extra duty pay, summer school, severance pay, sick leave payout, etc. unless the rate of compensation increases due to an increase in the salary schedule or an additional year of service entitles base year employee(s) to additional compensation.

² Enter base year salary subtotal.

³ Enter QEO1 salary subtotal.

Fringe Benefit Costs	_____	_____	_____
Credit Reimbursement 4/	_____	_____	_____
Social Security	_____	_____	_____
Retirement	_____	_____	_____
Health Insurance	_____	_____	_____
No.S _____ No.F _____			
Employer % Contribution			
Level S _____ F _____	_____	_____	_____
Dental Insurance	_____	_____	_____
No.S _____ No.F _____			
Employer % Contribution			
Level S _____ F _____	_____	_____	_____
Vision Insurance	_____	_____	_____
No.S _____ No.F _____			
Employer % Contribution			
Level S _____ F _____	_____	_____	_____
Life Insurance	_____	_____	_____
Employer % Contribution			
Level _____	_____	_____	_____
Disability Insurance	_____	_____	_____
Employer % Contribution			
Level _____	_____	_____	_____
Long-Term Care Insurance	_____	_____	_____
Employer % Contribution			
Level _____	_____	_____	_____
Other _____	_____	_____	_____
Total Fringe Benefit Cost	_____	_____	_____
Total Salary and Fringe Benefit Cost	_____	_____	_____
QEO1 Increased/decreased salary cost as a percentage of base Year total salary and fringe benefit cost		_____	
QEO1 Increased/decreased fringe benefit cost as a percentage of base Year total salary and fringe benefit cost		_____	
QEO2 Increased/decreased salary cost as a percentage of QEO1 total salary and fringe benefit cost			_____
QEO2 Increased/decreased fringe benefit cost as a percentage of QEO1 total salary and fringe benefit cost			_____

Attach a chart identifying the number of base year employees at each step and lane on any existing salary schedule. We swear that we completed this form in as accurate a manner as possible.

 Superintendent/
 Business Manager

 Date

 Treasurer

 Date

^{4/} The QEO1 and QEO2 credit reimbursement costs will remain the same as the base year costs unless the rate of reimbursement increases due to an increase in the salary schedule.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION QUALIFIED ECONOMIC OFFER
INSTRUCTIONS**

FORM C

Utilize the following instructions to determine the components of a qualified economic offer.

Note: If payment of any appropriate salary increase would raise your fringe benefit costs (due to resultant social security and retirement cost increases) above 1.7% of Step 3 (base cost), then reduce the salary increase in the amount necessary to keep the combined cost of fringe benefits, steps, and average salary increase at 3.8% of Step 3 (base cost).

DEVELOPING A QUALIFIED ECONOMIC OFFER

When calculating any appropriate salary increase or decrease, include any increased or decreased salary cost in extended contracts, co-curricular pay, extra duty pay, etc., which is produced by salary schedule increases or decreases or payment of steps or lanes.

why no extra sentence?

1. Complete Forms A and B.
2. Using the information on Form A, determine how the law requires you to proceed by identifying the cost combination that applies to the first 12-month period of your offer.

A. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps), are less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purpose of collective bargaining and contract administration:

1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
3. Pay an average salary increase to all employees in an amount determined by the difference between 3.8% of Step 3 (base cost) and the combined cost of Step 6 (fringe benefits) and Step 8 (steps) and in a manner which does not alter the relationship between steps and lanes in your existing salary structure. The options available for distribution of the general salary increase are a uniform dollar amount increase on each salary cell; or a uniform % increase to each salary cell; or an increase in the base which increases each cell in accordance with the existing salary structure.

B. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:

1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.

- C. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are more than 3.8% of Step 3 (base cost) but the cost of Step 6 (fringe benefits) is less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Calculate the prorated portion of Step 7 (steps) which can be funded by 3.8% of Step 3 (base cost) minus the cost identified by Step 5 (fringe benefits). To identify the proration percentage, identify the amount of money available to fund steps and divide by the amount of money necessary to fully fund steps.
 3. Pay the same prorated salary increase to all eligible employees entitled thereto by virtue of an additional year of employment on the salary schedule. Include longevity payments if they are part of the salary schedule. For example, if the foregoing calculation would allow payment of half of the Step 7 (steps) salary increase to eligible Step 1 employees, you must pay one-half of the salary increase to which any of your actual employees are entitled by virtue of an additional year of service on the salary schedule during the first 12 months of your offer.
- D. If the cost identified by Step 6 (fringe benefits) is 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining the contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
- E. If the cost identified by Step 6 (fringe benefits) is more than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. You may decrease the salary of all employees in an amount determined by the difference between the cost identified by Step 6 (fringe benefits) and 3.8% of Step 3 (base cost) and in a manner which does not alter the relationship between steps and lanes on your existing salary structure. The options available for distribution of the average salary decrease are a uniform dollar amount decrease on each salary cell; or a uniform % decrease on each salary cell; or a decrease in the base which decreases each cell in accordance with the existing salary structure.

For the second year or portion thereof, repeat your evaluation of options A-E utilizing the costs identified in Steps 9-14 of Form A.

FISCAL ESTIMATE

This proposed rule has no independent fiscal effect.

This proposed rule implements: (1) the amendment to the statutory definition of a qualified economic offer found in Sec. 111.70(1)(nc) 2.c., Stats., that excluded salary increases due to a promotion or the attainment of increased professional qualifications (generally known as "lane movement") from the cost of a qualified economic offer affecting school district professional employees; and (2) the ruling of the Wisconsin Court of Appeals in Racine Education Ass'n v. WERC, 238 Wis.2d 33 (2000) that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

The exclusion of "lane movement" costs from a qualified economic offer becomes effective with collective bargaining agreements covering the period of July 1, 2001 to June 30, 2003. The cost of "lane movement" varies from district to district and from year to year depending upon the salary structure in a collective bargaining agreement and the decisions of individual teachers as to whether to seek additional qualifications. The cost and composition of 2001-2003 contract settlements is unknown. Thus, although it is anticipated that the exclusion of "lane movement" costs will produce an increase in school district wage costs, that increase cannot be calculated with any certainty.

Because parties can voluntarily agree to exceed a 3.8% salary and fringe benefit increase when settling a school district professional employee collective bargaining agreement, the effect of the court's ruling that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe costs is unknown.

James R. Meier
Chairperson
A. Henry Hempe
Commissioner
Paul A. Hahn
Commissioner



JAN 29 2001

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**State of Wisconsin
Wisconsin Employment Relations Commission**

January 26, 2001

The Honorable Judy Robson
Wisconsin State Senator
P.O. Box 7882
Madison, WI 53707-7882

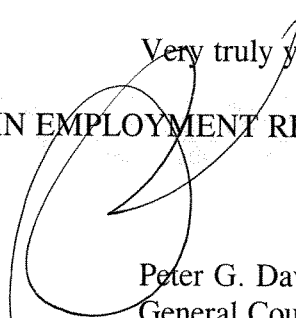
Re: Emergency Rule

Dear Senator Robson:

Pursuant to Sec. 227.24, Stats., enclosed is a copy of an emergency rule promulgated by the Wisconsin Employment Relations Commission on January 12, 2001 and the accompanying fiscal estimate.

Very truly yours,

WISCONSIN EMPLOYMENT RELATIONS COMMISSION


Peter G. Davis
General Counsel

PGD/rb
012505
Enclosure

Fiscal Estimate — 2001 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number Emergency Rule

Subject

Calculation of a Qualified Economic Offer

Fiscal Effect
 State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs — May be possible to absorb within agency's budget. <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriation		

Local: No Local Government Costs

1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Assumptions Used in Arriving at Fiscal Estimate

Affected Chapter 20 Appropriations

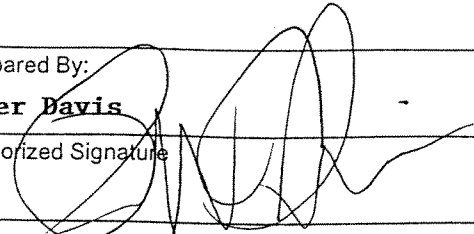
This emergency rule has no independent fiscal effect.

This emergency rule implements: (1) the amendment to the statutory definition of a qualified economic offer found in Sec. 111.70(1)(nc)l.c., Stats., that excludes salary increases due to a promotion or the attainment of increased professional qualifications (generally known as "lane movement") from the cost of a qualified economic offer affecting school district professional employees; and (2) the ruling of the Wisconsin Court of Appeals in Racine Education Ass'n v. WERC, 238 Wis.2d 33 (2000) that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

The exclusion of "lane movement" costs from a qualified economic offer becomes effective with collective bargaining agreements covering the period of July 1, 2001 to June 30, 2003. The cost of "lane movement" varies from district to district and from year to year depending upon the salary structure in a collective bargaining agreement and the decisions of individual teachers as to whether to seek additional qualifications. The cost and composition of 2001-2003 contract settlements is unknown. Thus, although it is anticipated that the exclusion of "lane movement" costs will produce an increase in school district wage costs, that increase cannot be calculated with any certainty.

Because parties can voluntarily agree to exceed a 3.8% salary and fringe benefit increase when settling a school district professional employee collective bargaining agreement, the effect of the Court's ruling that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe costs should be minimal.

Long-Range Fiscal Implications

Prepared By: Peter Davis	Telephone No. 266-2993	Agency WERC
Authorized Signature 	Telephone No.	Date (mm/dd/ccyy) 01/26/2001

ORDER OF THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

The Wisconsin Employment Relations Commission hereby amends ERC 33, Appendices A, B and C relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

To amend ERC 33, Appendices A, B and C the Commission exercises its authority under ss. 111.70(4)(cm)8, 111.71(1), and 227.24(1), Stats.

The amendment of ERC 33, Appendices A, B and C is required by 1999 Wisconsin Act 9's amendment of the statutory definition of a qualified economic offer in s. 111.70(1)(nc)1.c., Stats., and the ruling of the Wisconsin Court of Appeals in Racine Education Ass'n v. WERC, 238, Wis.2d 33 (2000). The amended statutory definition of qualified economic offer first applies to school district professional employee bargaining agreements covering the period of July 1, 2001 through June 30, 2003.

As amended, ERC 33, Appendices A, B and C allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor organization representing the district's professional employees as part of a qualified economic offer. As amended, ERC 33, Appendices A, B and C implement (1) the statutory requirement that salary increases due to a promotion or the attainment of increased professional qualifications are not part of a qualified economic offer; and (2) the ruling of the Court in Racine Education Ass'n v. WERC that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

As required by Sec. 227.24(1), Stats., we find that it is necessary to promulgate the attached amendment to ERC 33, Appendices A, B, and C as an emergency rule to preserve the public peace, health, safety and welfare. Absent promulgation of this emergency rule, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

This emergency rule shall take effect on the day of publication in the official state newspaper as provided in Sec. 227.24(1)(c), Stats.

Given under our hands and seal at the City of Madison, Wisconsin this 12th day of January, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

EMPLOYMENT RELATIONS COMMISSION

Chapter ERC 33

APPENDIX

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

QUALIFIED ECONOMIC OFFER CALCULATION

FORM A

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DEVELOPING A QUALIFIED ECONOMIC OFFER

Developing Employee Base

1. Identify all school district professional employees (as defined by Sec. 111.70(1)(ne), Stats.) who were represented by the labor organization for the purposes of collective bargaining and contract administration on the 90th day prior to the expiration of the current/most recently expired bargaining agreement. School district professional employees who were employed on the 90th day but who thereafter retire, resign or are terminated prior to the expiration of the current/most recently expired contract are included. School district professional employees on layoff, sick leave or leave of absence must be included if they continue to be represented by the labor organization for the purposes of collective bargaining and contract administration. School district professional employees who are replacing employees who are in leave status are not included unless they are represented by the labor organization for the purposes of collective bargaining and contract administration in the same bargaining unit as the employee being replaced.

Developing Fringe Base

2. Identify all fringe benefits and your percentage contribution toward the cost thereof as such benefits and contributions existed on the 90th day prior to the expiration of the current/most recently expired agreement, or the 90th day prior to the date on which your negotiations actually commenced if there is no previous collective bargaining agreement between the parties. If your fringe benefit contribution level is expressed as a dollar amount, convert the dollar amount to a percentage for the purposes of this calculation.

Total Base Cost Calculation

3. Using the employees identified in Step 1 and the fringe benefits and employer percentage contribution levels identified in Step 2, complete Form B to calculate the employer cost of

compensation and fringe benefits for the year preceding the expiration date specified in your current/most recently expired contract. For the purposes of this calculation, assume that any cost increase incurred during the year was in effect for the entire year. In your calculation, you must include the cost of any benefits Step 1 employees who retire will receive/received prior to the expiration of your current/most recently expired contract. Do not include the cost of providing benefits to employees who retired before the 90th day prior to the expiration of the current/most recently-expired contract.

Enter the total base year salary and fringe benefit costs from Form B here.

Salary _____

Fringe _____

Total _____

QEO 1 Dollar Amounts

4. Calculate 3.8%, 2.1% and 1.7% your Step 3 total and enter here

3.8% = _____ 2.1% = _____ 1.7% = _____

For the purposes of the following calculations, *do not* assume any change in: (1) the identity of Step 1 employees; (2) the level of service they provide to the district or (3) the fringe benefits Step 1 employees received or the applicable employer % contribution level. *Do* assume that any cost increase incurred during the year was in effect for the entire year.

QEO 1 Fringe Benefit Calculation

5. Using the same employees identified in Step 1 and the fringe benefits and employer percentage contribution levels identified in Step 2, calculate the actual employer cost of maintaining the fringe benefits and employer percentage contribution levels for the first 12-month period following the stated expiration date in the current/most recently expired contract. If your contract will have a duration of less than 12 months, prorate your cost calculation to reflect your actual contract duration, if appropriate. Enter this cost here and on Form B, QEO 1, fringe benefit cost. _____

6. Subtract your Step 3 base fringe benefit cost from your Step 5 cost and calculate the result as a percentage of your total Step 3 base year cost. Enter the result here and on Form B, QEO 1, fringe benefit percentage. _____

QEO 1 Step Calculation

7. For the first 12-month period following the stated expiration date in the current/most recently expired contract, calculate the total additional cost of providing each employee identified in

Step 1 with any salary increase to which they would be entitled by virtue of an additional year of service on the salary schedule (longevity is to be included if part of salary schedule). Enter this cost here and on Form B, QEO 1, Step Advancement _____.

8. Calculate your Step 7 cost as a percentage of the total Step 3 base year cost. Enter the result here. _____

End of first year QEO calculation

If you are bargaining a contract with a duration of 12 months or less, stop and proceed to the Qualified Economic Offer Instruction, Form C.

Start of second year QEO calculation

Total QEO 1 Base Cost Calculation

9. Repeat Step 3 for the first 12-month period following the stated expiration date of your current/most recently-expired contract. Enter the total QEO 1 salary and fringe benefit costs from Form B here.

Salary _____

Fringe _____

Total _____

QEO 2 Dollar Amounts

10. Calculate 3.8%, 2.1% and 1.7% of your Step 9 total and enter here:

3.8% = _____ 2.1% = _____ 1.7% = _____

QEO 2 Fringe Benefit Calculation

If your contract will have a duration of less than 24 months, prorate your QEO 2 cost calculation to reflect your actual contract duration, if appropriate.

11. Repeat Step 5 for the second 12-month period following the stated expiration date in the current/most recently expired contract. Enter this cost here and on Form B, QEO 2, fringe benefit cost _____.

12. Subtract your Step 9 fringe benefit cost from your Step 11 cost and calculate the result as a percentage of your Step 9 total QEO 1 cost. Enter the result here and on QEO 2, Form B, fringe benefit percentage _____.

13. Repeat Step 7 calculation for the second 12-month period following the stated expiration date in the current/most recently-expired contract. Enter the cost here and on Form B, QEO 2, Step Advancement. _____.

14. Calculate your Step 13 cost as a percentage of your Step 9 total QEO 1 cost. Enter the result here _____.

Proceed to the qualified economic offer instruction Form C.

FORM B

This Form and Form A must be provided by the district to the labor organization 60 days prior to contract expiration, or whenever a qualified economic offer is made, whichever is earlier.

Salary	Base Year	QEO1 1/	QEO2 1/
Salary Schedule	_____	_____ 2/	_____ 3/
Additional Step Advancement	_____	_____	_____
Additional QEO Salary Schedule Cost	_____	_____	_____
	xxxx		
	xxxx		
Salary Subtotal	_____	_____	_____
Longevity (include here if not on salary schedule)	_____	_____	_____
Extended Contracts	_____	_____	_____
Co-Curricular Pay	_____	_____	_____
Extra Duty Pay	_____	_____	_____
Athletic Events	_____	_____	_____
Department Head	_____	_____	_____
Curricular Work	_____	_____	_____
Overload Pay	_____	_____	_____
M-Team	_____	_____	_____
IEP	_____	_____	_____
Supervision	_____	_____	_____
Other _____	_____	_____	_____
Total Extra Duty Pay	_____	_____	_____
Summer School	_____	_____	_____
Severance Pay	_____	_____	_____
Sick Leave Payout	_____	_____	_____
Other _____	_____	_____	_____
Total Salary Cost	_____	_____	_____

¹ The QEO1 and QEO2 salary costs will remain the same as the base year costs for longevity (if not a step), extended contracts, co-curricular pay, extra duty pay, summer school, severance pay, sick leave payout, etc. unless the rate of compensation increases due to an increase in the salary schedule or an additional year of service entitles base year employee(s) to additional compensation.

² Enter base year salary subtotal.

³ Enter QEO1 salary subtotal.

Fringe Benefit Costs

Credit Reimbursement 4/

Social Security

Retirement

Health Insurance

No. S ___ No. F ___
 Employer % Contribution
 Level S ___ F ___

Dental Insurance

No. S ___ No. F ___
 Employer % Contribution
 Level S ___ F ___

Vision Insurance

No. S ___ No. F ___
 Employer % Contribution
 Level S ___ F ___

Life Insurance

Employer % Contribution
 Level ___

Disability Insurance

Employer % Contribution
 Level ___

Long-Term Care Insurance

Employer % Contribution
 Level ___

Other _____

Total Fringe Benefit Cost

Total Salary and Fringe Benefit Cost

QEO1 Increased/decreased salary cost as a percentage of base
 Year total salary and fringe benefit cost

QEO1 Increased/decreased fringe benefit cost as a percentage of
 base Year total salary and fringe benefit cost

QEO2 Increased/decreased salary cost as a percentage of QEO1
 total salary and fringe benefit cost

QEO2 Increased/decreased fringe benefit cost as a percentage of
 QEO1 total salary and fringe benefit cost

Attach a chart identifying the number of base year employees at each step and lane on any existing salary schedule. We swear that we completed this form in as accurate a manner as possible.

 Superintendent/
 Business Manager

 Date

 Treasurer

 Date

^{4/} The QEO1 and QEO2 credit reimbursement costs will remain the same as the base year costs unless the rate of reimbursement increases due to an increase in the salary schedule.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION QUALIFIED ECONOMIC OFFER
INSTRUCTIONS

FORM C

Utilize the following instructions to determine the components of a qualified economic offer.

Note: If payment of any appropriate salary increase would raise your fringe benefit costs (due to resultant social security and retirement cost increases) above 1.7% of Step 3 (base cost), then reduce the salary increase in the amount necessary to keep the combined cost of fringe benefits, steps, and average salary increase at 3.8% of Step 3 (base cost).

DEVELOPING A QUALIFIED ECONOMIC OFFER

When calculating any appropriate salary increase or decrease, include any increased or decreased salary cost in extended contracts, co-curricular pay, extra duty pay, etc., which is produced by salary schedule increases or decreases or payment of steps or lanes.

1. Complete Forms A and B.
2. Using the information on Form A, determine how the law requires you to proceed by identifying the cost combination that applies to the first 12-month period of your offer.
 - A. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps), are less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purpose of collective bargaining and contract administration:
 1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
 3. Pay an average salary increase to all employees in an amount determined by the difference between 3.8% of Step 3 (base cost) and the combined cost of Step 6 (fringe benefits) and Step 8 (steps) and in a manner which does not alter the relationship between steps and lanes in your existing salary structure. The options available for distribution of the general salary increase are a uniform dollar amount increase on each salary cell; or a uniform % increase to each salary cell; or an increase in the base which increases each cell in accordance with the existing salary structure.
 - B. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
 1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.

- C. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are more than 3.8% of Step 3 (base cost) but the cost of Step 6 (fringe benefits) is less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Calculate the prorated portion of Step 7 (steps) which can be funded by 3.8% of Step 3 (base cost) minus the cost identified by Step 5 (fringe benefits). To identify the proration percentage, identify the amount of money available to fund steps and divide by the amount of money necessary to fully fund steps.
 3. Pay the same prorated salary increase to all eligible employees entitled thereto by virtue of an additional year of employment on the salary schedule. Include longevity payments if they are part of the salary schedule. For example, if the foregoing calculation would allow payment of half of the Step 7 (steps) salary increase to eligible Step 1 employees, you must pay one-half of the salary increase to which any of your actual employees are entitled by virtue of an additional year of service on the salary schedule during the first 12 months of your offer.
- D. If the cost identified by Step 6 (fringe benefits) is 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining the contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
- E. If the cost identified by Step 6 (fringe benefits) is more than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. You may decrease the salary of all employees in an amount determined by the difference between the cost identified by Step 6 (fringe benefits) and 3.8% of Step 3 (base cost) and in a manner which does not alter the relationship between steps and lanes on your existing salary structure. The options available for distribution of the average salary decrease are a uniform dollar amount decrease on each salary cell; or a uniform % decrease on each salary cell; or a decrease in the base which decreases each cell in accordance with the existing salary structure.

For the second year or portion thereof, repeat your evaluation of options A-E utilizing the costs identified in Steps 9-14 of Form A.