

CHAPTER 16.

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SUBCHAPTER I.

GENERAL ADMINISTRATION.

16.001 Organization of department. (1) PURPOSES. The purposes of this chapter are to conserve the state's resources by co-ordinating management services and providing effective aid to agencies of the state government; to present clearly defined alternatives and objectives of state programs and policies so that the state's agencies, the governor and the legislature may plan co-operatively and finance the services which the state will provide for its citizens; to help the state's agencies furnish the agreed upon services

as efficiently and effectively as possible, avoiding any duplication of effort or waste of money; to assure the legislature and the governor that the services are being provided to the public at the agreed upon quantity, quality and cost; and to anticipate and resolve administrative and financial problems faced by the agencies, governor and legislature of the state.

(2) **LIBERAL CONSTRUCTION OF STATUTES.** Statutes applicable to the department of administration shall be construed liberally in aid of the purposes declared in sub. (1).

16.002 Definitions. The following words have the designated meanings in this chapter unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(1) "Department" means the department of administration, its officers and employes.

(2) "Commissioner" means the commissioner of administration, who shall be the head of the department.

(3) "Deputy" or "deputy commissioner" means the deputy commissioner of administration.

(4) "Director" means the head of a bureau in the department of administration.

(5) "Bureau" means the major organizational units within the department.

(6) "Board" means the personnel board.

(7) "Departments" or "agency" means any state officers, departments, boards and commissions; all state educational, charitable, correctional and other institutions; all societies and associations, and other agencies of the state government for which appropriations are made by law from state revenues.

16.003 Department of administration. (1) **CREATION.** There is created a department of administration, consisting of a commissioner who shall be the principal executive officer responsible for the formulation of department policies and for the execution of the duties and functions assigned to the department, a deputy commissioner and employes. The department is created to carry out the purposes of this chapter by improving the techniques used for such management specialties, not limited by enumeration, as budgeting, accounting, engineering, purchasing, and personnel and records management; by co-ordinating and providing services which are used by more than one agency, and by reviewing agencies' programs and management to identify problems and suggest improvements.

(2) **COMMISSIONER AND DEPUTY.** The commissioner shall be appointed by the governor outside the classified service by and with the advice and consent of the senate, and shall serve at the pleasure of the governor. He shall be appointed on the basis of recognized interest, administrative and executive ability, training and experience in and knowledge of problems and needs in the field of general administration. The deputy shall be appointed by the commissioner outside the classified service for an indefinite term. In the absence or disability of the commissioner, the deputy shall exercise the commissioner's powers and authority, and shall perform such other duties as the commissioner prescribes.

(3) **STAFF.** The commissioner shall appoint the staff necessary for performing the duties of the department, subject to the classified service. When a vacancy occurs in the position of director of personnel the members of the personnel board shall prepare and conduct an examination for the position in the manner usually followed and prescribed by ch. 16 for all other positions, and the governor shall make the appointment from the top 3 names certified to the commissioner.

(4) **OATH; BOND.** The commissioner and deputy commissioner shall take the official oath. The governor may require a bond covering any or all employes of the department in such amount and with such surety as he deems necessary.

(5) **ADVISORY COMMITTEE.** An advisory committee is created to confer with the commissioner on matters of administrative policy and procedures with respect to the functions of the department of administration and to advise the commissioner and governor on such matters. The committee shall meet with the commissioner at least once each quarter. Members of the committee shall be appointed by the governor. Membership shall not exceed 11 of which at least 6 members shall be appointing officers of the state. Other persons with recognized interest and knowledge of administration in a large organization may be appointed. The appointments shall be for 2 years or until a successor is appointed.

History: 1961 c. 645.

16.004 Commissioner, powers and duties. (1) **AUTHORITY.** The commissioner shall be responsible for and have the authority to direct the faithful execution of the statutory duties and powers assigned to the department.

(2) ORGANIZATION. The department shall be organized to include a deputy commissioner, bureaus of personnel, finance, engineering, purchases and management and such other bureaus as the commissioner finds necessary for the efficient and effective administration of the department, and the commissioner shall allocate and reallocate functions and duties to achieve this purpose. Any allocation or reallocation of functions shall be approved by the governor.

(3) RULES. The commissioner shall establish rules for administering the department and performing the duties assigned to it, subject to the rules established by the personnel board.

(4) INFORMATION; REPORTS; RECOMMENDATIONS. The commissioner shall furnish all information requested by the governor or by any member of the legislature, and make all reports required of him by statute. The commissioner shall report to the governor and the board on government operations by July 15 of each year recommendations and legislative proposals which will improve the administration of the state's agencies, and make a report on the work performed and accomplishments of the department of administration, which shall be a public document.

(5) INVESTIGATIONS AND HEARINGS. The commissioner and his assistants, when directed by the governor, shall be authorized and shall make investigations of any irregularities, and of all phases of operating cost and functions of any or all executive or administrative departments, institutions, boards and commissions in the state government so as to determine the feasibility of consolidating, creating or rearranging departments for the purpose of effecting the elimination of unnecessary state functions, avoiding duplication, reducing the cost of administration and increasing efficiency. The commissioner may hold either public or private hearings to inform himself of any matters relating to his functions and for that purpose shall be clothed with the powers relating to witnesses given by s. 325.01 (4) and the provisions of s. 325.12 shall apply.

(6) FREEDOM OF ACCESS. The commissioner and such assistants as shall be designated by him may enter into any department, institution, board or commission and examine its books, accounts, rules and regulations and any other matter which in the commissioner's judgment should be examined and may interrogate the department's employes publicly or privately relative thereto.

(7) DEPARTMENTS AND EMPLOYEES TO CO-OPERATE. Every department, its officers and employes, shall co-operate with the commissioner and shall comply with his every request relating to his functions.

(8) MANAGEMENT AUDITS. The commissioner shall periodically make management audits of departments of the state, utilizing teams of specialists in the fields of purchasing, personnel, accounting, budgeting, space utilization, forms design and control, records management, and any other specialties necessary to effectively appraise all management practices, operating procedures and organizational structures.

History: 1961 c. 316.

SUBCHAPTER II.

CIVIL SERVICE.

16.01 Statement of policy. It is the purpose of this subchapter to provide the state's agencies with adequate and competent staffs which furnish the state's services to its citizens as efficiently and effectively as possible. It is the policy of the state that, in the classified service, such staffs shall and can best be provided by personnel management methods which apply the merit principle, with adequate civil service safeguards. To this end, the personnel board and the department of administration, its officers and employes, shall develop, promote and protect a personnel management program which assures that the state hires the best qualified persons available and bases the treatment of its employes upon the relative value of each employe's services and his demonstrated competence and fitness.

16.02 Definitions In ss. 16.01 to 16.30, unless the context otherwise requires:

- (1) "Board" means the state personnel board.
- (1) "Board" means the personnel board in the department of administration.
- (2) "Civil service" means all offices and positions of trust or employment, including mechanics, artisans and laborers, in the service of the state, except offices and positions in the organized militia.
- (3) "Appointing officers" means the officer, commission, board or body, having the power of appointment, or election to, or removal from, subordinate positions in any office, department, commission, board or institution.

(4) "Subordinate" or "employee" means any person holding a subordinate position subject to appointment, removal, promotion or reduction by any appointing officer.

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

History: 1961 c. 645.

16.03 Personnel board; qualifications, appointment, term. (1) The state personnel board shall consist of 5 members, who shall be appointed by the governor with the consent of the senate for terms of 5 years expiring on July 1 or when their successors have been appointed and qualified if a successor has not been appointed by that date. The members of the board shall have the following qualifications:

(a) They shall be citizens of the United States, and

(b) They shall be residents of the state for not less than 5 years, and

(c) They shall have a recognized sympathy for and knowledge of the application of merit principles in public employment, and

(d) At least 3 of them shall have a minimum of 5 years experience in professional personnel work or labor relations; and

(e) They shall not, when appointed, nor for 3 years immediately prior to the date of appointment, have been a member of any local, state or national committee of a political party, or an officer or a member of a committee in any partisan club or organization, or have held or been a candidate for any elective public office; and

(f) No member of the board shall become a candidate for or hold any of these offices while serving as such member. Violation of this provision shall be grounds for removal.

(1a) The board shall annually elect one of its members as chairman of the board.

(1b) The present members of the board shall retain their positions until their terms expire. On or before July 1, 1962, the governor shall appoint one additional member for a term to expire July 1, 1964, one additional member for a term to expire July 1, 1966. Thereafter all appointments shall be for 5 years.

(2) Each member of the personnel board shall take and file the official oath.

(3) At no time shall more than 3 members be adherents of the same political party; and no member shall hold any other lucrative administrative office under this state.

(4) The members of the personnel board shall each be paid \$25 per day for time actually devoted to their duties and shall be reimbursed for their actual and necessary expenses.

History: 1961 c. 645.

16.04 Use of municipal and county buildings. The officials in control of municipal and county buildings, upon requisition by the director, shall furnish convenient offices and rooms for examinations, and necessary furniture, heat and light for the accommodation of local examiners.

16.05 Duties of personnel board. (1) Hear appeals from any action taken by the director in any matter arising under ss. 16.01 to 16.30, upon the application of any interested party. No appeal shall be granted unless a notice of such appeal is received by the board not more than 10 days after the effective date of the action on which the appeal is made. The decision of the board on such appeals shall be final except that any such determinations may be appealed to the appropriate court. Hearings on appeals shall be open to the public except that the board may close a hearing at the request of the appellant.

(2) After a public hearing, review and approve any rules submitted by the director for carrying into effect the provisions of ss. 16.01 to 16.30. All rules so prescribed shall be subject to the approval of the governor, and they may, from time to time, subject to like approval, be added to, amended or rescinded. The board may propose such rules as it deems necessary to carry out the provisions of ss. 16.01 to 16.30 subject to the approval of the governor. If the governor takes no action on a rule or amendment submitted to him within a period of 10 days from the date of its submission, then the rule or amendment shall become effective as though approved by the governor. Notice of the contents of such rules and of any modifications thereof shall be given in due season to appointing officers affected thereby, and such rules and modifications shall also be printed for public distribution.

(3) Make investigations concerning all matters touching the enforcement and effect of the provisions of ss. 16.01 to 16.30 and the rules prescribed thereunder concerning the action of any employee of the department of administration and any person in the public service, in respect to the execution of said sections.

(a) Each member of the personnel board and the director may administer oaths and take testimony. The board and the director may examine such public records as it requires in relation to any matter which they have authority to investigate. All officers and other persons in the civil service shall attend and testify when requested to do so by the board or the director.

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

(4) Recommend improvements in the state personnel management practices to the governor in a public biennial report, which shall be transmitted to the presiding officers of each house of the legislature.

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

History: 1961 c. 645.

16.055 Assistance to counties, cities and villages. The bureau of personnel shall, when requested by the proper authorities, render service in accordance with this chapter to counties, cities and villages, and shall charge the cost of such service to the city, village or county for which it is performed.

16.08 Classification of civil service. (1) **CLASSES.** The civil service is divided into the unclassified service and the classified service.

(2) **UNCLASSIFIED SERVICE.** The unclassified service comprises positions held by:

(a) All officers elected by the people.

(b) All officers and employes appointed by the governor whether subject to confirmation or not, unless otherwise provided.

(c) The director, chief of the American history research center, chief of interpretation and education of the state historical society; and, with the approval of the board of curators and the director of personnel, such number of specialists as may from time to time be required by said society for specific research, writing, collecting or editing projects which for a limited period of time not to exceed 2 years, renewable at the discretion of the board of curators and the director of personnel for an additional 2-year period, require persons with a particular training or experience in a specialized phase or field of history, historical research, writing, collecting or editing, and any person or persons whose entire salary is paid from funds reappropriated to said society by s. 20.430 (41) where competitive examination is impractical.

(d) All presidents, deans, principals, professors, instructors, research assistants, librarians and other teachers, as defined in s. 42.20, in the university, state colleges and the Wisconsin school for the deaf.

(e) All other officers and employes of the state whose positions are expressly excluded from the classified service by statute or whose positions cannot be placed under the classified service because of the restrictions placed on them by statute.

(f) All legislative officers.

(g) One deputy or assistant and one stenographer of each elective executive officer and the speaker of the assembly.

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

(j) Boys employed in the youth camps created under s. 46.70.

(3) **CLASSIFIED SERVICE.** The classified service comprises all positions not included in the unclassified service.

History: 1961 c. 676.

16.10 Appointments, promotions, changes in classified service. (1) Appointments to, and promotions in the classified service, shall be made only according to merit and fitness, which, except as otherwise provided by law shall be ascertained so far as practicable by examinations which so far as practicable, shall be competitive.

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

(3) No person shall be appointed, transferred, removed, reinstated, promoted or reduced as an officer, clerk, employe or laborer in the classified service in any manner or by any means, other than those prescribed in ss. 16.01 to 16.30.

16.105 Classification and compensation plan. (1) The director, with advice and approval of the personnel board, shall ascertain and record the duties and responsibilities of, and establish grades and classes for, all positions to which this chapter applies. Each class shall include positions requiring duties which are substantially similar in respect to the authority, responsibility, and character of the work required in the performance thereof and shall be designated by a title indicative of such duties. Each class shall be so defined that the same requirements as to education, experience, capacity, knowledge and skill are demanded of incumbents for the proper performance of their duties, that the same tests of fitness may be used in choosing qualified appointees; and that the same schedule of pay can be made to apply with equity under like working conditions. As far as practicable the natural or probable lines of promotion to and from the class of position shall be designated or indicated. The titles of positions so established shall be used in all reports and pay rolls and in all estimates requesting the appropriation of money for personal services.

(1m) After consultation with the appointing authorities, the director shall allocate each position in the classified service to an appropriate class in the classification plan on the basis of its duties, authority and responsibilities. He shall likewise re-allocate positions from class to class on the same basis whenever he finds such action to be warranted. An establishment list shall be maintained by the director for each employing unit showing by classes the types and number of positions that have been established and maintained. The board after considering the recommendation of the director shall provide in its rules the procedure for establishing, discontinuing and abolishing positions.

(2) (a) The director shall, after a public hearing and with the advice and approval of the personnel board, establish and maintain salary schedules and ranges for all positions and employments in the state service to which this chapter applies.

(b) Each such range shall provide for a minimum and a maximum rate of pay, and for intermediate salary steps to govern salary increases for meritorious service. The director shall not certify the salary of any person holding any such position or employment, unless such salary is at the minimum or maximum of such range, or is at an intermediate step within such range, or is increased within the authorized salary range in multiples of \$5; but this provision shall not prevent the payment of any added pay for added hours of work under rules of the board, which shall be considered separately from the basic salary rate of the employe.

(bn) The director in like manner may establish separate pay schedules for part time which is less than one-half time on a daily, weekly or monthly basis, short-term, project and student employments. The director may pursuant to s. 16.05 (1) [16.05 (2)] establish special rules for recruiting and examination in such employments. Fringe benefits specifically authorized by statutes, with the exception of workmen's compensation, unemployment compensation, group insurance, retirement and social security coverage, shall be denied these employments.

(bx) The director, with the approval of the joint committee on finance or the board on government operations when the legislature is not in session, may establish a separate salary schedule for teachers reflecting length of service and professional training and otherwise having the same general provisions prevalent in schedules used in the public school system. The amount of individual salary adjustments and the frequency of adjustments shall be provided for in the teachers' salary schedule. The total amount to be budgeted and used for salary increases, however, shall be limited to an amount consistent with par. (e). The director may likewise establish a separate salary schedule for persons licensed to practice medicine reflecting professional training and experience in the field of medicine and recognizing specialization in this field.

(c) Merit increases within salary ranges shall be allowed each year to employes in the classified service, by each department head for his department, in accordance with this section and rules and regulations of the board, subject to the following limitations:

1. The total of all such merit increases for any fiscal year shall not exceed 80 per cent of the amount which would be required if every employe eligible for a merit increase were to receive an increase equal to one intermediate step or the portion thereof to reach the maximum in the range but if such 80 per cent is not an exact multiple of \$5 it shall be increased to the next higher \$5 multiple. For the fiscal year beginning July 1, 1961, the amount shall be equal to 100 per cent of that required if every eligible employe were to receive an increase equal to one intermediate step.

2. Each appointing officer shall, in granting or denying merit increases, take into

account the relative performance of his employes, with a view to recognizing and encouraging superior service.

3. No employe shall receive a merit increase exceeding 2 intermediate steps. Merit increase of 2 intermediate steps shall be granted by an appointing officer only for exceptionally meritorious service.

4. Not more than 10 per cent of the employes currently eligible to receive a merit increase in a given department shall receive increases amounting to as much as 2 intermediate steps. In computing the 10 per cent limitation, any resulting fraction shall be rounded to the next higher unit.

5. No employe shall be eligible for a merit increase on any July 1 if he has not then completed his probationary period.

(d) An employe, on completion of the first 6 months of a probationary period established pursuant to s. 16.22 (1), shall be granted an increase of not more than one intermediate salary step.

(dx) The basic salary of an employe promoted to fill a vacancy in a position in a higher salary range, shall be increased to the minimum of the new salary range or to that point above the minimum which will give him a total salary increase equal to one step in the range to which he is promoted.

(e) Each department head shall, in submitting his budget to the governor-elect and to the joint committee on finance, request an amount for merit increases. Such amount shall be equal to the sum of:

1. Eighty per cent of the amount which would be required if every employe eligible for a merit increase during the budgetary period were to receive an increase equal to one intermediate step; but if such 80 per cent is not an exact multiple of \$5, it shall be increased to the next higher \$5 multiple.

2. The amount estimated to be required during said period for the merit increases authorized by par. (d).

(3) Immediately after the organization of the joint committee on finance in each regular session of the legislature, the director shall report to such committee the following:

(a) The standard salary ranges for the various grades and classes of positions in the classified civil service.

(am) Extra compensation for hours worked between 6 p.m. and 6 a.m. by persons in full-time positions, and part-time positions where employment regularly equals or exceeds one-half time on a daily, weekly or monthly basis, and shall recommend rules for determining eligibility for such extra compensation. Such rules shall provide such extra compensation to all employes for such portion of regularly scheduled hours of work that fall between 6 p.m. and 6 a.m., but may exclude hours so worked on an unscheduled basis.

(b) Recommendations, based upon experience in recruiting the service, data collected as to rates of pay for comparable work in other public services and in commercial and industrial establishments, and any special studies carried on, as to the need for changes in the compensation schedule for any grade and class or group of classes.

(c) Any other matters that seem pertinent in developing and administering a compensation plan for the classified service which takes proper account of prevailing market rates, costs and standards of living, the state's employment policies, and the state's financial resources and needs.

(4) The standard salary ranges submitted by the director, as may be modified by the joint committee on finance, shall, for the ensuing biennium, constitute the state's compensation plan for positions in the classified service; provided, that the personnel board, with the approval of the director and board on government operations, while the legislature is not in session, may change the compensation schedule for any grade and class when such action is made desirable by changing employment and economic conditions.

History: 1961 c. 277, 574, 645; [1961 s. 43.08 (2)].

16.11 Examinations; procedure, where held. (1) All examinations for positions in the classified service shall be of such character as to determine the qualifications, fitness and ability of the persons examined to perform the duties of the class for which the register is being established. The examinations may be written, oral, physical, evaluation of training and experience, demonstration of skill, or any combination of such types. The examinations may take into consideration such factors, including education, experience, aptitude, capacity, skill, knowledge, character, physical fitness and other qualifications, as in the judgment of the director, enter into the determination of the relative fitness of the applicants. A person failing in the written portion of any such examination shall not be permitted to participate or continue with any other remaining portion of such examination. No question shall be so framed as to elicit information concerning the political or religious opinions or affiliation of an applicant. Every precaution shall be taken to prevent any unauthorized person from gaining any knowledge of the nature and content

of the tests that is not available to every applicant. The director shall utilize appropriate scientific techniques and procedures in rating the results of examinations and determining the relative ratings of the competitors. If 2 or more competitors have like averages in the total examination, the order in which their names shall appear on the register shall be determined by that component part of the several parts of the total test as in the judgment of the director has been determined as most significant in relation to the job for which the examination is given.

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

(3) It is the declared policy of the state that under the operation of ss. 16.01 to 16.30, there shall be a fair distribution throughout the state of persons accepted for the classified service, and to that end examinations shall be held at convenient points in the state.

(4) The director may require candidates who have satisfied the preliminary requirements, to undergo an examination, in cases where oral tests or tests for manual skill or use of instruments in constructive work may be necessary, at convenient or designated places in the state.

(5) Whenever an oral examination of applicants is to be required, the director shall list in the examination announcement the qualifications which will be appraised in the oral examination. The system of oral examinations shall be designed to produce objective data upon which oral ratings shall be assigned and shall be designed to appraise such factors as ability to assume responsibility, initiative, or ability to co-operate with others. Applicants shall be given an opportunity to produce actual evidence of occasions when they have demonstrated the qualifications being measured. Applicants may use names, dates and places, or other factual data necessary to substantiate evidence given. A record of each oral examination shall be kept for the purpose of validation and review, and for contributing to the objectivity of the entire process.

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

(7) Records of examinations given under this section shall be retained for a period of not less than one year. Inspection of such records shall be regulated by rules of the personnel board.

History: 1961 c. 645.

16.12 Application for admission to examinations; forms. (1) The director shall require persons applying for admission to any examination provided for under ss. 16.01 to 16.30, or under the rules of the board, to file in the office of the department of administration a reasonable time prior to the proposed examination, a formal application.

(2) The director may require in connection with such application such certificates of citizens, physicians or others having knowledge of the applicant, as the good of the service may require.

(3) Blank forms for such applications shall be furnished by the department of administration without charge to all persons requesting the same.

16.13 Applicants and eligibles may be barred; qualifications, bonds may be required. (1) The director may refuse to examine the applicant, or after examination to certify an eligible, (a) who is found to lack any of the preliminary requirements estab-

lished for the examination for the position or employment for which he applies, (b) who is physically or mentally so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment, except that a person shall not be discriminated against because of total or partial blindness unless normal eyesight is absolutely indispensable to do the physical acts to be performed, (c) who is addicted to the habitual use of intoxicating liquors to excess, (d) who has been guilty of any crime or of infamous or notoriously disgraceful conduct, (e) who has been dismissed from the public service for delinquency or misconduct, (f) who has made a false statement of any material fact, (g) who directly or indirectly gives, renders, or pays or promises to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment or proposed appointment, (h) who practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment, (i) who refuses to furnish testimony as required in s. 16.06 [16.05 (3) (a)], or (j) except on promotions whose work record or employment references are unsatisfactory.

(2) Whenever the director refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, then said director, if requested by the person so rejected within 10 days of the date of receipt of such notice of rejection, shall give to him a full and explicit statement of the exact cause of such refusal to examine or to certify, as the case may be. Appeal may be had from the decision of the director in accordance with s. 16.05 (5) [16.05 (1)] provided notice of such appeal is received by the director not more than 10 days after the date of such statement. Upon request of an applicant or an eligible for a civil service position who is blind, the services to the blind, division of public assistance, department of public welfare, shall obtain from such director a detailed description of all duties entailed by such position and investigate the necessity for eyesight in the fulfillment of the duties of any position, and shall determine and report its findings to the director, as to the physical ability of the applicant, or eligible, to perform the duties of such position. Such findings shall be conclusive as to the physical qualifications of any applicant, or eligible, so examined.

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

History: 1961 c. 645.

16.14 Political or religious affiliations; no discrimination. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations and all disclosures thereof shall be discountenanced. No discriminations shall be exercised, threatened, or promised, by any person in the civil service against or in favor of any applicant, eligible, or employe in the classified service because of his political or religious opinions or affiliations.

16.15 Recommendations. No recommendation for any person who applies for office or place, or for examination or registration under the provisions of ss. 16.01 to 16.30, or of the rules established pursuant thereto, except as to character, and, in the case of former employers or teachers, as to ability, shall be given to, or considered by any person concerned in making any examination, registration, appointment, promotion or reinstatement under ss. 16.01 to 16.30, and the rules made pursuant thereto. No recommendation whatsoever shall relate to the political or religious opinions of any applicant. No recommendation for the promotion of any person in the classified service shall be considered by any officer concerned in making promotions, except it be made by the officer or officers under whose supervision or control such employe is serving. Any recommendation made contrary to the provisions of this section, with the knowledge and consent of the applicant or employe, shall be sufficient cause for refusing his application or appointment, or for debarring him from the promotion proposed, and a repetition of the offense shall be sufficient cause for removing him from the service.

16.17 Classified service; appointments to, term of eligibility, separate lists for various localities. (1) Appointments shall be made to or employment shall be given in all positions in the classified service that are not filled by promotion, reinstatement, transfer or reduction under the provisions of ss. 16.01 to 16.30, and the rules made in pursuance thereof, by appointments from among those certified to the appointing officer in accordance with the provisions of s. 16.18.

(2) The term of eligibility of applicants on original entrance and promotional lists

shall be 6 months; but such term may be extended by the director. The eligibility of individuals on reinstatement lists may be extended in like manner. But such eligibility may not be extended for a period of more than 3 years.

(3) Appointments shall be made from the eligible list most nearly appropriate, and a new and separate list shall be created for a stated position only when there is no appropriate list existing from which appointments may be made. The director with the advice and approval of the board shall have authority to establish separate eligible lists in various localities, provided that the director has given proper publicity to the intent of the department of administration to establish such lists. For legislative positions, the department of administration shall certify the names of all who make a passing grade to the appointing authorities. Insofar as possible appointments to legislative positions shall be made according to senatorial districts and the order in which names appear on the eligible list. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, or assigned to perform the duties of, any position subject to a competitive examination, unless he has previously passed an open competition examination equivalent to that required for such position.

(4) In case of vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the board upon recommendation of the director may suspend the provisions of the statute requiring competition in such case, but no suspension shall be general in its application to such place, and all such cases of suspension shall be reported in the biennial report of the department of administration with the reasons for the same.

History: 1961 c. 645.

16.18 Classified service; notice of vacancy, preference to veterans, appointment, objections to. (1) Appointing officers shall give written notice to the department of administration of the existence of any vacancy to be filled in any office or employment in the classified service, under ss. 16.01 to 16.30, and the director shall certify from the register of eligibles appropriate for the grade and class in which the position is classified, the 3 names at the head thereof, which have not been certified 3 times. Whenever an employing officer notifies the department of administration of a vacancy to be filled he shall indicate whether he wishes certification to be made from an appropriate re-employment or original employment register for the grade or class. Whenever eligibles are certified, they must be those candidates who have been graded highest in an examination held in pursuance of ss. 16.01 to 16.30, and the rules made in accordance therewith, except that there shall be no restriction as to age in the case of veterans and except that other conditions being equal, a preference shall be given in favor of veterans of any of the wars of the United States in accordance with the dates specified in s. 45.35 (5a). The employing officer shall not reject because of age any eligible veteran, 55 years of age or less, whose name has been certified to him. Preference is hereby defined to mean that whenever an honorably discharged veteran competes in any examination conducted by the bureau he shall be accorded 5 points, and if such veteran has a disability which is directly or indirectly traceable to war service, he shall be accorded another 5 points, in addition to earned ratings therein. In every case after a name has been certified 3 times, it may be dropped from the list by the director, but certificates for temporary appointment shall not be counted as one of such certificates.

(2) The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates whose name is certified in the manner above set forth, to fill such vacancy unless objection is made, and sustained by the director, to one or more of the persons certified for any of the reasons stated in s. 16.13; however, the provisions of this section may be altered by the director when the office or employment comes within those where by s. 16.20 competitive examinations are not required.

History: 1961 c. 437, 645.

16.19 Classified service; promotions. (1) Vacancies in positions in the classified service shall be filled, so far as practicable, by promotion from among persons holding positions in the classified service, under rules made and enforced by the personnel board. Promotions shall be based upon merit and fitness to be ascertained by examinations, to be provided by the director, and upon the superior qualifications of the person promoted as shown by his previous service, due weight being given to seniority and experience.

(2) For the purposes of this section an increase in the salary or other compensation

of any persons holding an office or position subject to the provisions of chapter 16, beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion.

(3) No promotion shall be made to a position in the classified service from a position in the unclassified service, nor shall any promotion be made except as provided in s. 16.105 (1).

History: 1961 c. 645.

16.20 Classified service; provisional, emergency, limited term appointments. Positions in the classified service may be filled without competition only as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify to the appointing officer upon requisition by the latter a list of persons eligible for appointment after a competitive examination, the appointing officer may nominate a person to the director for noncompetitive examination, and if such nominee is certified by the said director as qualified after such noncompetitive examination, he may be appointed provisionally to fill such vacancy only until a selection and appointment can be made after competitive examination, but no such appointment shall be continued for more than 30 days and successive appointments shall not be made.

(2) In case of an emergency an appointment may be made without regard to the rules of this section, but in no case to continue longer than 20 days, and in no case shall successive emergency appointments be made.

(3) Employment specified in s. 16.105 (2) (bn) shall be designated as a limited term. Employees in these positions are not considered career employees and do not qualify for tenure, vacation, paid holidays, sick leave, merit increases or the right to compete in promotional examinations.

16.21 Training programs. (1) **DECLARATION OF POLICY.** In order to promote efficiency and economy in the operation of the state government, to provide means for the development of maximum proficiency by employees thereof, to establish and maintain the highest standards of performance in the transaction of the state's business, and to install and utilize effectively the best modern practices and techniques which have been developed, tested and proved, it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. The objectives of these programs shall be to develop skills, knowledge and abilities which will best qualify state employees for effective performance of their official duties, and to retain skilled and efficient state employees in order to continually improve the quality of public service. The bureau of personnel in co-operation with appointing authorities shall coordinate state-sponsored training programs.

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

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

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

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

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

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

(3) **CONDITIONS PRECEDENT.** Unless otherwise empowered by law, any department desiring to initiate a training program under sub. (2) shall certify to the director of personnel, that (a) unencumbered appropriated funds are available or board on government operations funds have been so provided; (b) training costs estimated to exceed \$500, excluding the compensation of participants, have been included in the budget and approved by the legislature or approved by the board on government operations, and such costs will be encumbered for training purposes on the records of the department of administration; (c) an agreement has been entered into by the trainee and the appointing officer relative to employment with the state, together with such other terms and condi-

tions as may be necessary under the rules of the personnel board, and (d) the immediate and necessary work requirements of the department will not be jeopardized because of such training program.

(4) GIFTS, GRANTS, AIDS, ETC. Nothing in this section shall nullify the acceptance or the special conditions of training programs financed by gifts, grants, bequests and devises from individuals, partnerships, associations or corporations and all subventions from the United States, unless pursuant to s. 16.54 or 20.953, such financing has been refused by the state.

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

(6) RULES FOR INTERNSHIPS. The director of personnel shall draft rules and regulations relating to salary increases, annual leaves, the probationary period, and means by which interns may be promoted to permanent employment in the state service.

(7) CO-OPERATE FOR SCHOLARSHIP LOANS. To stimulate the interest of qualified students of exceptional merit in government career service, the director of personnel shall co-operate with the university regents in providing opportunities for recipients of public service scholarship loans to secure employment under the internship plan.

(8) ROSTER FOR SUPERSERVICE. The director of personnel shall maintain a perpetual employment roster of men and women with special qualifications for public service administration obtained by selection from within the service upon the recommendation of appointing authorities, and from the student bodies of the educational institutions maintained by the state upon recommendation of their governing bodies, by selection from outside the service, including nonstate supported educational institutions.

16.22 Probationary period; permanent appointment. (1) All original and all promotional appointments to permanent and seasonal positions in the classified service shall be for a probationary period of 6 months except as herein provided, but dismissal may be made at any time during such period; provided that a promotion or other change in job status within a department shall not affect the permanent status and rights previously acquired by an employe within such department. An employe demoted under the provisions of s. 16.24 (1) (a) shall not retain the permanent status previously acquired. Upon such dismissal, the appointing authority shall forthwith report to the director and to the employe removed his action and the reason therefor. No more than 3 employes shall be removed successively from the same position during their probationary periods without the approval of the director. The director may remove an employe during his probationary period if he finds, after giving notice and an opportunity to be heard, that such employe was appointed as a result of fraud or error. The director may authorize a longer probationary period not to exceed 2 years for any classification allocated to range 12 and above within the schedules for which increases are based solely on merit if the duties of the position are such that a 6-month period does not provide the employe with exposure to the various responsibilities which are a part of the position or classification. Upon request by the appointing authority, the director may terminate the probationary period under such schedule prior to the authorized extended probationary period but in no case before a 6-month probationary period has been served.

(2) Fifteen days prior to the expiration of an employe's probationary period, the director shall notify the appointing officer as to the date on which the probationary period will terminate, and thereupon the appointing authority shall notify the director in writing whether or not the services of the employe have been satisfactory and whether or not he will continue the employe in his position. A copy of such notice shall be given to the employe.

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

(4) An employe reinstated to a department, other than the one from which he earned reinstatement rights, or an employe transferred from one department to another, may be required by the appointing authority to serve a probationary period. However, completion of such probationary period shall not make the employe eligible for a salary increase under s. 16.105 (2) (d).

(5) An employe whose position is classified as a trainee shall be on a probationary

period for the duration of the training program and may be separated during that period without the right of appeal, at the discretion of the appointing authority. Upon qualifying for the objective classification, he shall serve a probationary period as specified in sub. (1).

History: 1961 c. 645.

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

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

(3) The board after consideration of the recommendation of the director may provide in its rules for the reinstatement of persons who have served meritoriously less than three months in seasonal employments, the need for which may reasonably be anticipated and is likely to recur each year or shorter period.

16.24 Removals, suspensions, discharges, reductions, dismissals, layoffs, resignations. (1) (a) No permanent subordinate or employe in the classified service who has been appointed under ss. 16.01 to 16.30 or the rules made pursuant thereto shall be removed, suspended without pay, discharged, or reduced in pay or position except for just cause, which shall not be religious or political. No suspension without pay shall be effective for more than 30 days. In all such cases the appointing officer shall, at the time of such action, furnish to the subordinate in writing his reasons for the same. The reasons for such action shall be filed in writing with the director within 5 days of the effective date thereof. Within 10 days after the effective date of such action of the appointing officer, the employe may appeal to the board and within 30 days after the date of appeal, the board shall hold a public hearing thereon.

(b) After the public hearing before the board, the board shall either sustain the action of the appointing officer, or shall reinstate the employe fully. Any action brought against the appointing officer by the employe for failure to comply with the order of the board to reinstate shall be brought and served within 60 days from the date of the board's findings.

(2) Provisional employes as defined in s. 16.20 (1), emergency employes as defined in s. 16.20 (2), and limited term employes as defined in s. 16.20 (3) may be dismissed or laid off at any time at the discretion of the appointing officer. Seasonal employes provided for in s. 16.23 (3) may be dismissed or laid off at any time during the first 6 months of service, and, if such service extends beyond 6 months, they may be laid off at the expiration of the seasonal period, at the discretion of the appointing officer. In case of a reduction in force because of a stoppage or lack of work or funds or because of material changes in duties or organization, permanent employes shall be laid off in accordance with rules established by the personnel board. The seniority and service ratings of employes shall be considered, in such manner as the rules shall provide, in determining the order of layoffs and reinstatements. The appointing officer shall confer with the director relative to a proposed layoff a reasonable time before the effective date thereof in order to assure compliance with the rules. Persons so laid off shall be placed on the appropriate reinstatement list. Resignations from the classified service shall be regulated by the rules of the personnel board.

(3) Any employe who shall have been removed, demoted or reclassified, from or in any position or employment in contravention or violation of any provisions of ss. 16.01 to 16.30, and who shall have been reinstated to such position or employment by order of the board or any court upon review, shall be entitled to compensation therefor from the date of such unlawful removal, demotion or reclassification at the rate to which he would have been entitled by law but for such unlawful removal, demotion or reclassification, and such employe shall be entitled to an order of mandamus to enforce the payment or other provisions of such order.

16.25 Appointing officers to report appointments, promotions, reductions, separations, efficiency, etc., standards of performance; service ratings. (1) Each appointing officer shall report to the director forthwith in writing upon any appointment or employment in the classified service, the name of the appointee, or employe, the title and character of his office or employment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and shall report from time to time, and, upon the date of the official action, in, or knowledge of each case, any separation of a person from the service or any promotion, reduction, transfer, reinstatement, or other change therein, the efficiency of his subordinates and employes and other information, in such manner as may be prescribed.

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

16.26 Roster of classified service; access to public records. The director shall keep in the office an official roster of the permanent employes in the classified service and shall enter thereon the name of each and every person who has been appointed to, employed, promoted, reduced or reinstated in any position in such service, upon such evidence as it may require or deem satisfactory that such person was appointed to, employed, promoted, reduced or reinstated in the service in conformity with this chapter, and the rules adopted pursuant thereto. This roster shall show in connection with each name the date of appointment, employment, promotion, reduction or reinstatement, increases and decreases in pay, the compensation and title of the position, changes in title, transfer and the date and nature of any termination of such office or employment. The director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with said roster.

History: 1961 c. 645.

16.27 Pay rolls certified by director; mandamus; liability of appointing officer; taxpayers' suits. (1) Neither the director nor other fiscal officer of this state shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state to pay any salary or compensation to any person in the service of the state unless an estimate, pay roll or account for such salary or compensation, containing the names of every person to be paid, shall bear the certificate of the director that the persons named in such estimate, pay roll, or account have been appointed, employed, reinstated or promoted as required by law and the rules established thereunder and that the salary or compensation is within the salary ranges fixed pursuant to s. 16.105.

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

(3) Any sums paid contrary to the provisions of this section may be recovered from any officer or officers making such appointments in contravention of the provisions of law or of the rules made in pursuance of law, or from any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, or from the sureties on the official bond of any of said officers, in an action in the circuit court of any county within the state, maintained by the director or the personnel board or by any member thereof, or by a citizen resident therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city or county tax within this state. All moneys recovered in any action brought under this section when collected, shall be paid into the state treasury except that if a citizen taxpayer

is plaintiff in any such action he shall be entitled to receive for his own use the taxable cost of such action and 5 per cent of the amount recovered as attorney's fees.

16.274 **Leave of absence and salary while serving in unclassified position.** A permanent employe in the classified service appointed to a position in the unclassified service shall be granted a leave of absence without pay from his former position in the classified service for the period of his service in such unclassified position and for one year thereafter, during which time he shall be entitled to return to such former position or to one with equivalent responsibility and pay in the classified service without loss of seniority or civil service status. Any permanent employe receiving a greater salary in the classified service than that provided for a position in the unclassified service to which he is appointed shall be entitled to the same salary while serving in such position as he was receiving in the classified service at the time of such appointment. This section shall supersede any provision of law in conflict therewith.

16.275 **State office hours; standard work week; leaves of absence; holidays.** (1)

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

1. Two weeks each year for a full year of service during the first 5 years of service;
2. Three weeks each year for a full year of service during the next 15 years of service;
3. Four weeks each year for a full year of service after 20 years of service.

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

(c) When the rate of annual leave changes during the fifth or twentieth calendar year, the annual leave for that year shall be prorated according to the appropriate rates.

(d) Annual leaves of absence shall not be cumulative except that unused annual leave may, subject to the rules of the personnel board, be carried over the first 6 months of the year following the one in which it was earned.

(e) Classified employes who are regularly employed for less than 12 months out of a year but who are employed 6 or more months in continuous service in the employing department shall be granted pro rata annual leave consistent with par. (a). Such continuous service need not be in a single calendar year. These employes, with the approval of their appointing authority, may anticipate the vacation which they will earn during their current period of employment.

(f) Heads of departments shall grant to each person in their employ on January 1, 1959, or whose absence on such date is covered under par. (g), who was employed prior to January 1, 1958, noncumulative annual leave of absence without loss of pay at the rate of 3 weeks for a full year's service and, based on his accumulated continuous state service, at the rate of 4 weeks after 20 full years of service. Employes covered under this paragraph, with the approval of their appointing authority, may anticipate the annual leave which they will earn during the current calendar year. Seasonal employes who were employed 6 or more months in 1957 and 1958 and who are reemployed in the same or other seasonal position in 1959 shall be granted pro rata annual leave consistent with this paragraph.

(g) The continuous service of an employe eligible for annual leave shall not be considered interrupted if he: 1. was absent for not more than 30 calendar days; 2. was on an approved leave of absence; or 3. left the service for any reason except to take other employment and is reemployed within 3 years. However, employment by any other political subdivision of this state shall not be construed as other employment.

(h) Any absence of more than 30 days except military leave and absence due to injury or illness arising out of state employment and covered by the workmen's compensation act shall not be counted in computing years of continuous service under this subsection. Employes subject to par. (e) and permanent part-time employes covered under par.

(k) shall be deemed to have completed one full year of service for each such seasonal or other part-time annual period of service in computing years of continuous service under this subsection.

(i) Annual leave shall not be earned for any period of absence without pay except that for administrative purposes any approved leave of 30 calendar days or less may be disregarded.

(j) The appointing authority shall respect the wishes of the eligible employes as to the time of taking their annual leave insofar as the needs of the service will permit.

(k) Permanent part-time employes whose employment regularly equals or exceeds one-half time on a daily, weekly or monthly basis shall be granted pro rata annual leaves consistent with par. (a).

(1) Heads of departments shall grant to each person in their employ on January 1, 1960, or whose absence on such date is covered by par. (g) and who received 2 weeks annual leave without loss of pay in 1958 pursuant to the enactment of chapter 553, laws of 1957, an additional week of annual leave without loss of pay in 1960, and to each person in their employ on January 1, 1960, or whose absence on such date is covered by par. (g), and who received one week annual leave without loss of pay in 1958 pursuant to the enactment of chapter 553, laws of 1957, an additional week of annual leave without loss of pay in 1960 and 1961. This paragraph shall apply only to those employes entitled to annual leave without loss of pay in 1960 and 1961, respectively.

(m) Heads of departments shall grant to each person in the employ of the state on January 1, 1962 or whose absence on such date is covered by par. (g) and who received or was entitled to receive a pro rata portion of 2 weeks annual leave without loss of pay in 1958 pursuant to the enactment of chapter 671, laws of 1957, a pro rata portion of an additional week of annual leave without loss of pay in 1962, and to each person in the employ of the state on January 1, 1962, or whose absence on such date is covered by par. (g), and who received or was entitled to receive a pro rata portion of one week annual leave without loss of pay in 1958 pursuant to the enactment of chapter 671, laws of 1957, a pro rata portion of an additional week of annual leave without loss of pay in 1962 and 1963. This paragraph shall apply only to those employes entitled to annual leave without loss of pay in 1962 and 1963, respectively.

(n) Where allowances such as laundry, meals or lodging are provided any classified employe or an employe and his family, and such allowance in kind is included as a part of the compensation, the appointing officer or department head in addition shall pay in cash the value of the food during the vacation period or noncumulative leave of absence, if not so utilized, to such an employe.

(2) Leave of absence with pay owing to sickness and leave of absence without pay, other than vacation, shall be regulated by rules of the personnel board, except that unused sick leave shall accumulate from year to year not to exceed 60 days. Unused sick leave accumulated in excess of 60 days shall lapse, but such lapsed sick leave shall be recorded by the appointing officer. In the event of extended illness of any employe with lapsed unused sick leave recorded to his credit, such lapsed sick leave shall be restored and may be used, in whole or in part, by such employe on recommendation of the appointing officer and approval thereof by the commissioner and the director.

(3) No annual leave benefits authorized by existing legislation shall be reduced by this enactment (1961).

(4) Officials and employes of the state who have permanent status or are seasonal employes who have worked at least 6 continuous months in prior seasonal employment and who are duly enrolled members of the national guard, the state guard, the officers' reserve corps, the enlisted reserve corps, the naval reserve, the marine corps reserve, or any other reserve component of the military or naval forces of the United States or the state of Wisconsin now or hereafter organized or constituted under federal law, are entitled to leaves of absence without loss of time in the service of the state, to enable them to attend military and naval schools, field camps of instruction and naval exercises which have been duly ordered held but not to exceed 15 days, excluding Sundays and holidays enumerated in s. 14.59 (1) [16.275 (6)] in the calendar year in which so ordered and held. There shall be no deduction from or interruption in the pay from the state for the time spent in such attendance, irrespective of whether or not they receive separate pay for and identified with the attendance. The leave granted by this section is in addition to all other leaves granted or authorized by any other provision of law and the time of the leave granted under this section shall not be deemed a part of any leave granted or authorized by any other provision of law. For the purpose of determining seniority, pay or salary advancement the status of the employe shall be considered as though not interrupted by such attendance.

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

(6) (a) The office of the departments of state government shall be kept open on all days of the year except Saturdays, Sundays and the following holidays:

1. January 1;
2. May 30;
3. July 4;
4. The first Monday in September;

5. The fourth Thursday in November or the day appointed by the governor as a day of thanksgiving;
6. December 25;
7. The day following if January 1, May 30, July 4 or December 25 falls on Sunday;
8. After 12 noon on Good Friday, in lieu of the period specified in s. 256.17;
9. The afternoons of December 24 and 31.

(am) Compensatory time off shall be granted to state employes for work performed on the holidays enumerated in par. (a).

(an) It is the intent of this section that all employes shall be granted 7½ holidays annually in addition to regularly scheduled days off and annual leave, the time to be at the discretion of the department head.

(b) Heads of departments shall give employes time off for voting under s. 6.047 without any deduction of compensation for time lost thereby.

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

(7) The standard basis of employment for the state service shall be 40 hours per week divided into 5 days of 8 hours each, except that where the conditions of employment cannot be fulfilled by adhering to the standard week, deviations may be permitted upon recommendation of the appointing authority and subsequent approval of the department of administration.

History: 1961 c. 271, 282, 645; [1961 s. 43.08 (2)].

16.276 Restoration of employment. (1) Any classified employe of the state of Wisconsin who has enlisted or enlists or has been or is inducted or ordered into active service in the armed forces of the United States pursuant to the selective training and service act of 1940 or the national guard and reserve officer mobilization act of 1940, the selective service act of 1948 and any acts amendatory thereof or supplementary thereto or P.L. 87-117, and any such employe whose services are specifically requested by the federal government for national defense work as a civilian during a period officially proclaimed to be a national emergency or a limited national emergency, who, in order to perform such training or service, has left or leaves a position, other than a temporary position, as a classified employe of the state of Wisconsin shall be restored to such a position or to a position of like seniority, status, pay, salary advancement and pension rights under ss. 42.60 to 42.70 [Stats. 1945] as though such services toward seniority, status, pay, salary advancement and pension rights under ss. 42.60 to 42.70 had not been interrupted by such designated service, provided that (a) he presents to the employing agency a certificate or other evidence that he has satisfactorily completed his period of training or service, (b) he is still qualified to perform the duties of such position, (c) he makes application for re-employment within 90 days after he is released from such training or services, and (d) the circumstances of the employing agency have not changed as to make it impossible or unreasonable to so restore such employe and upon the employe's request made at any time before 6 months after he is relieved from such training or services, or absence during federal hospitalization because of injuries or sickness resulting from such war or emergency service the employe, upon presentation of proof of discharge other than dishonorable or other than (a) by reason of the sentence of a general court martial, (b) on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authorities, (c) as a deserter or (d) of an officer by the acceptance of his resignation for the good of the service, release from such active service or federal hospitalization shall be restored as hereinafter provided:

(a) Any classified employe who had attained permanency under s. 16.22 and the rules of the personnel board pursuant thereto when he left state service shall, under this section, be restored to a position of like seniority, status, pay, salary advancement, group insurance and pension rights under s. 23.14. The service of any employe who is or was so restored shall be deemed not to be or have been interrupted by such leave, except for the receipt of pay or other compensation, accumulation of sick leave, and vacation for the period of such absence, and he shall be given all the benefits of seniority, status, pay, salary advancement and pension rights under s. 23.14 as though his state employment had not been so interrupted. Any permanent employe who leaves the service by reason of

being called to active duty in the armed forces under P. L. 87-117 and who has used his yearly vacation in anticipation of a full year's employment is presumed not to have interrupted his employment as far as vacation pay is concerned, and any portion of his vacation for which he was paid which is unearned at the time of being called to active duty may be made up when he returns to work. If such employe does not return to the state service, he shall within 2 years repay the state the amount he had not earned. The application of this provision shall be retroactive to all state employes called to active duty under P. L. 87-117.

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

(c) Any classified employe who had attained reinstatement rights as a seasonal employe under s. 16.22, and the rules of the personnel board pursuant thereto, when he left state service shall, under the provisions of this section, be restored to such seasonal position or eligibility as though his service or eligibility had not been so interrupted.

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

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

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

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

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

History: 1961 c. 660.

16.277 Seniority credit for federal employment during emergency. Any classified employe on June 5, 1953, who entered the service of the United States in civilian war emergency employment on or after January 1, 1942, and who was not at the time of such entry an employe of the state, and who on November 16, 1946, in accordance with Public Law 549 of the 79th congress was transferred to the service of this state shall have such seniority rights as though he had been a member of the classified service of the state during the period of his employment in the service of the United States.

16.28 Taxpayers' suits. The right of any taxpayer to bring any action to restrain the payment of compensation to any person appointed to or holding any office or place of employment in violation of the provisions of ss. 16.01 to 16.30 shall not be limited or denied by reason of the fact that said office or place of employment has been classified as, or determined to be, not subject to competitive examination; however, any judgment or injunction in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers, in accordance with the rules of the personnel board in force at the times of such payments.

16.29 Duty and liability of appointing officer; aged employes. (1) All officers of this state shall conform to, comply with and aid in all proper ways in carrying into effect the provisions of ss. 16.01 to 16.30, and the rules prescribed thereunder.

(2) No appointing officer shall select or appoint any person for appointment, employment, promotion or reinstatement, except in accordance with the provisions of ss. 16.01 to 16.30, and the rules prescribed thereunder.

(3) Any person employed or appointed contrary to the provisions of ss. 16.01 to 16.30, or of the rules established thereunder, shall be paid by the officer or officers so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any service performed under such appointment or employment, or attempted appointment or employment, or in case no compensation is agreed upon, the actual value of such services and any expenses incurred in connection therewith, and shall have a cause of action against such officer or officers or any of them, for such sum and for the costs of the action. No public officer shall be reimbursed by the state for any sums so paid or recovered in any such action.

(4) When an employe becomes physically or mentally incapable of or unfit for the efficient and effective performance of the duties of his position by reason of infirmities due to age, disabilities, or otherwise, it is the duty of the appointing officer either to transfer him to less arduous duties or place him on a part-time service basis and at a part-time rate of pay or as a last resort retire him from the service. The appointing officer may require the employe to submit to a medical examination to determine his fitness to continue in service. The cost of such examination shall be paid by the employing department. In either case the same method of procedure shall be followed and the same right of appeal to the personnel board as provided in s. 16.24.

History: 1961 c. 645.

16.30 Political contributions and certain political activities prohibited. No person holding a position in the classified civil service shall directly or indirectly solicit or receive or be in any manner concerned with soliciting or receiving any assistance or subscriptions or contributions for any political party or any political purpose whatsoever. No person shall orally or by letter solicit or be in any manner concerned in soliciting any assistance, subscription, or support for any political party or purpose whatsoever from any person holding any position in the classified civil service. No person holding any position in the classified civil service shall during the hours when he is on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold political office, nor shall he engage in any political activity when not on duty to such an extent that his efficiency during working hours will be impaired or that he will be tardy or absent from his work. Any violation of the provisions of this section shall be adequate grounds for dismissal.

16.301 Obstruction or falsification of civil service examinations. (1) Any commissioner, or examiner, or any other person who wilfully, by himself or in co-operation with one or more persons, defeats, deceives or obstructs any person in respect of his or her rights of examination or registration, according to ss. 16.01 to 16.30 or to any rules or regulations prescribed pursuant thereto, or

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

(3) Who wilfully or corruptly makes any false representations concerning the same, or concerning the person examined, or

(4) Who wilfully or corruptly furnishes any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any persons so examined, registered or certified, being appointed, employed or promoted, or

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

16.302 Prohibited appointments punished. Whoever, after a rule has been duly established and published, according to the provisions of ss. 16.01 to 16.30, makes an appointment to office or selects a person for employment, contrary to the provisions of such rule, or wilfully refuses or neglects otherwise to comply with, or to conform to, the provisions of ss. 16.01 to 16.30, or violates any of such provisions, shall be deemed guilty of a misdemeanor. If any person shall be convicted under this section, any public office which such person may hold shall by force of such conviction be rendered vacant, and such person shall be incapable of holding office for the period of 5 years from the date of such conviction.

16.303 Misdemeanors, how punished. Misdemeanors under the provisions of s. 16.301 or 16.302 are punishable by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 2 years, or both.

16.305 Merit award to state employes. (1) MERIT AWARD BOARD CREATED. There is created within the department of administration, a Wisconsin state employes merit award board, to consist of 3 persons who may be state officers or employes to be appointed by the governor. Initial appointments shall be for 1, 2 and 3 years, respectively, for terms to commence July 1, 1953. Thereafter each appointment shall be for a term of 3 years. All terms shall expire June 30 of the year of expiration. Vacancies shall be filled by the governor for the unexpired term. Annually the board shall elect one of its members as chairman of the board. The members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(2) DUTIES OF THE BOARD. The board shall have authority and it shall be its duty:

(a) To formulate, establish and maintain a plan or plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employes promoting efficiency and economy in the performance of any function of state government;

(b) To appoint departmental or divisional committees to analyze and review suggestions and accomplishments of state employes submitted for consideration under such plan or plans, and to make recommendations thereon to the board;

(c) To make and render merit awards to or for the benefit of state employes nominated to receive them in accordance with such plan or plans.

(3) PERSONNEL, FACILITIES, AND EQUIPMENT OF THE BOARD. The director shall detail and assign for the use of the board such personnel, facilities and equipment as the board may require for the proper performance of its work. The board may request and shall receive from any state department such assistance as it may require, and each such department shall make available to the board, upon its request, any of its personnel and facilities required for the furtherance of the work of the board.

(4) AWARDS. The board may determine the nature and extent of the merit awards to be made under this section which may include, but shall not be limited to, the following:

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

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

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

16.31 Hazardous employment, injuries, salary continued. (1) Whenever a conservation warden, state forest ranger, field employe of the conservation department who is subject to call for fire control duty, member of the state patrol, state motor vehicle inspector, full-time member of the state fair police department, state university full-time policeman, state beverage tax investigator, fire watchman employed at the Grand Army home, or guard or institutional aid or a state probation and parole officer or any other employe whose duties include supervision and discipline of inmates at a state penal institution, including central state hospital, the state school for boys, the state school for girls, or while on parol supervision outside of the confines of the institutions, or supervision of persons placed on probation by a court of record, or supervision and care of patients at a state mental institution, suffers injury while in the performance of his duties, as defined in subs. (2) and (3), he shall continue to be paid his full monthly salary by his employing department upon the same basis as he was paid prior to the injury. Such full monthly salary shall be paid to the employe while he is unable to work as the result of the injury for not to exceed 3 months. When the employe is paid such salary under this section there shall be no deduction from his sick leave credits, compensatory time for overtime accumulations or vacation.

(2) "Injury" as used in this section is physical harm to an employe caused by accident or disease.

(3) As used in this section "Performance of duties" means duties performed in line of duty by:

(a) A forest ranger or field employe of the conservation department who is subject to call for forest fire control duty or fire watchman employed at the Grand Army home at all times while:

1. Driving or riding in a vehicle, aircraft or boat under circumstances which require hazardous maneuvering or speed in excess of the normal or posted limits in the performance of fire control duties;
2. Engaged in an effort to save lives, recover dead bodies, or protect public or private property;
3. Going to or returning from a fire and while engaged in the suppression of a fire; or
4. Engaged in public demonstration or training exercises provided such demonstration or training exercises are authorized by the appointing authority.

(b) A conservation warden, a member of the state patrol, state motor vehicle inspector, university full-time policemen, full-time member of the state fair police department, and state beverage tax investigator at all times while:

1. In the process of making an arrest or investigating any violation or suspected violation of the law or the quelling of a riot or any other violence;
2. Engaged in an effort to save lives, recover dead bodies or protect public or private property;
3. Driving or riding in a vehicle, aircraft or boat under circumstances which require hazardous maneuvering or speed in excess of the normal or posted limits in the performance of law enforcement duties; or
4. Engaged in public demonstration or training exercises provided such demonstration or training exercises are authorized by the appointing authority.

(c) A guard, institution aid, or other employe of state penal and mental institutions, including central state hospital, the state school for boys, the state school for girls and state probation and parole officers, at all times while:

1. In the process of quelling a riot or disturbance or other act of violence;
2. In the process of restraining patients, inmates, probationers or parolees and apprehending runaways or escapees, including probationers and parolees;
3. When injury is inflicted as the result of an assault or act of violence by a patient, inmate, probationer or parolee; or
4. In the process of making an arrest or investigating any violation or suspected violation of law pursuant to police powers authorized by s. 46.05 (2) and rules adopted pursuant thereto.

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

History: 1961 c. 262, 667.

SUBCHAPTER III.

FINANCE.

16.40 Department of administration, duties, powers. It shall be the duty of the department of administration and it shall have power and authority:

- (1) **PREPARE BUDGET.** To discharge all duties in connection with the compilation of the biennial state budget report imposed by ss. 16.42 to 16.46.
- (2) **ATTEND FINANCE COMMITTEE.** To attend all public hearings of the joint committee on finance and such executive meetings as the committee may desire, to answer questions and to give information called for by the committee relative to the financial operations of the state and its several departments.
- (3) **FINANCIAL STATEMENT.** To prepare at the end of each fiscal year not later than October 15, a condensed, and popular account of the finances of the state, showing the sources of the state's revenue and the purposes of its expenditures, including a comparison with the prior year; to prepare at the end of each fiscal year not later than October 15, a statement of the condition of the general fund showing the cash balance, the accounts receivable, the accounts payable and the continuing unexpended and unencumbered appropriation balances; and to prepare not earlier than January 1 nor later than February 1, in odd-numbered years a tentative statement of the estimated receipts and disbursements of the general fund for the biennium in progress, showing also the estimated condition of the general fund at the end of the current biennium. A copy of each of such statements shall be filed in the legislative reference library and shall be sent to each member of the legislature.

(4) **FURNISH INFORMATION.** To furnish such other information regarding the finances of the state and the financial operations of departments as may be called for by the governor, the governor-elect, the legislature or either house thereof, or any member thereof.

(5) **BOOKKEEPING FORMS.** To prescribe the forms of accounts and other financial records to be used by all departments. Such accounts shall be as nearly uniform as is practical, and as simple as is consistent with an accurate and detailed record of all receipts and disbursements and of all other transactions affecting the acquisition, custodianship and disposition of value. The director may call upon the state auditor for advice and suggestions in prescribing such forms.

(6) **TAKE TESTIMONY.** In the discharge of any duty imposed by law, to administer oaths and take testimony and to cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit courts.

(7) **COLLECT REVENUE INFORMATION.** To collect from any available source and to correlate information concerning any and all anticipated state revenues.

(8) **COLLECT INFORMATION ON DISBURSEMENTS.** To collect and correlate information from all state departments concerning any departmental disbursements and the proper time thereof.

(9) **FORECAST REVENUES AND EXPENDITURES.** To forecast all revenues and expenditures of the state.

(10) **DETERMINE MINIMUM CASH BALANCES.** To determine the minimum cash balances needed in operating banks at all times to meet the operating requirements of all state departments.

(11) **ADVISE INVESTMENT BOARD DIRECTOR ON SURPLUS MONEYS.** To advise the executive director of the state of Wisconsin investment board daily concerning surplus moneys available for investment from each of the various state funds.

(12) **ADVISE INVESTMENT BOARD DIRECTOR ON CASH NEEDS.** To advise the executive director of the state of Wisconsin investment board concerning the date when invested funds will be required in the form of cash. Said director shall furnish such reports of investments as may be required by the department of administration.

(13) **CO-OPERATE IN IMPROVEMENTS OF STATE FUND MANAGEMENT.** To co-operate with the executive director of the state of Wisconsin investment board, the state treasurer, the department of taxation and other revenue departments for the purpose of effecting improvements in the management and investment of state funds.

History: 1961 c. 33.

16.41 Departmental accounting, information, aid. (1) All departments shall keep their accounts and other financial records as prescribed by the director under s. 16.40 (5), except as otherwise specifically directed by law. All such departments shall also furnish to the director all information relating to their financial transactions which he may call for pursuant to this subchapter and shall render such assistance in connection with the preparation of the state budget report and the budget bill and in auditing accounts, as the director or the governor may require.

(2) The director and his duly authorized employes shall have free access to all financial accounts of every state department, and it shall be the duty of each such department to assist the director in preparing estimates of receipts and expenditures for inclusion in the state budget report.

(3) Upon request of the director all state departments shall furnish such information concerning anticipated revenues and expenditures as may be required by him for effective control of state finances.

16.42 Departmental reports. Each department, other than the legislature and the courts shall, in each even-numbered year on the date prescribed for it by the director, furnish to the director the following data:

(1) A detailed statement of its actual and estimated receipts during the preceding and the current biennium, and its estimate of the receipts during the succeeding biennium;

(2) A detailed statement of its actual and estimated disbursements during the preceding and the current bienniums and an estimate of its needs in the succeeding biennium;

(3) A full explanation of its requests for appropriations in the succeeding biennium, including a statement of the work proposed to be done and the activities to be carried on;

(4) A list of all employe positions and their salaries at the time of such report showing basic salary, cost of living bonus, and total salary, together with similar comparative

detail for the succeeding biennium showing, in addition, the proposed merit increases contemplated for each ensuing year of the biennium as well as all contemplated new employe positions and the salaries to be paid; such statement to be furnished on forms prescribed by the director;

(5) All fiscal or other information relating to the department that the director or the governor may require on forms prescribed by the director;

(6) Should any department fail to furnish the above data by the date specified, the director is empowered to make budget estimates for said department, board or commission.

16.43 Budget compiled. The director shall compile and submit to the governor-elect, not later than November 20 of each even-numbered year, a compilation giving all of the data required by s. 16.46 to be included in the state budget report, except the recommendations of the governor and the explanation thereof.

16.44 Budget hearings. After the filing of such compilation, the governor-elect shall hold public hearings upon the requests of the several departments, at which the heads of those departments and any interested citizen may be heard in relation to any matters referred to in the departmental estimates. The director shall arrange a schedule of the time and place of such hearings, to suit the convenience of the governor-elect, and shall give notice thereof to the interested departments and also to the public through the press. The director and the state auditor shall attend all such hearings and shall give such advice and assistance to the governor-elect in the conduct of such hearings as he may desire.

16.45 Budget message to legislature. Not later than February 1 in each regular session of the legislature, the governor shall deliver his budget message to the 2 houses in joint session assembled. With such message he shall transmit to the legislature the biennial state budget report and the executive budget bills together with suggestions for the best methods for raising the needed revenues.

16.46 Biennial budget, contents. The biennial state budget report shall be prepared by the director, under the direction of the governor, and a copy of a budget-in-brief thereof shall be furnished to each member of the legislature on the day of the delivery of the budget message. The biennial state budget report shall be furnished to each member of the legislature on or about February 15 of each odd-numbered year and shall contain the following information:

(1) A summary of the actual and estimated receipts of the state government in all operating funds under existing laws during the preceding, the current and the succeeding bienniums, classified so as to show the receipts by funds, organization units and sources of income;

(2) A summary of the actual and estimated disbursements of the state government from all operating funds during the preceding and the current bienniums and of the requests of departments and the recommendations of the governor for the succeeding biennium;

(3) A statement showing the condition of all operating funds of the treasury at the close of the preceding fiscal year and the estimated condition at the close of the current year;

(4) A statement showing how the total estimated disbursements during each year of the succeeding biennium compare with the estimated receipts, and the additional revenues, if any, needed to defray the estimated expenses of the state;

(5) A statement of the actual and estimated receipts and disbursements of each department and of all state aids and activities during the preceding and the current biennium, the departmental estimates and requests, and the recommendations of the governor for the succeeding biennium. Estimates of expenditures shall be classified to set forth such expenditures by funds, organization units, appropriation, object and activities at the discretion of the director;

(6) Any explanatory matter which in the judgment of the governor or the director will facilitate the understanding by the members of the legislature of the state financial condition and of the budget requests and recommendations.

16.47 Budget bill. (1) The executive budget bills shall incorporate the governor's recommendations for appropriations for the succeeding biennium. One bill shall cover each of the following operating funds: the general fund, the highway fund and the conservation fund. Each appropriation in each bill except those for highway construction and aids to local units may be divided into 3 allotments; personal services, other operating

expenses, and capital outlay, or appropriations may be made in total for all expense. The appropriation method shall in no way affect the amount of detail or manner of presentation which may be requested by the joint committee on finance. Appropriation requests shall be divided into 3 allotments; personal services, other operating expenses and capital outlay. Immediately after the delivery of the budget message, the bills shall be introduced without change into either house by the joint finance committee and when introduced shall be referred to that committee.

(2) No bill affecting the general fund and containing an appropriation or increasing the cost of state government or decreasing state revenues shall be passed by either house until the general fund budget bill has passed both houses; except that the governor or the joint committee on finance may recommend and the legislature enact emergency appropriation bills. Such bills shall carry a statement to the effect that they are emergency appropriation bills recommended by the governor or the joint committee on finance, and such statement shall be sufficient to permit passage prior to the general fund budget bill.

16.48 Recommendation of joint finance committee on fiscal policy. At any time during the regular session but not later than 10 days after the passage by both houses of the budget bill relating to the general fund, the joint committee on finance shall report to the legislature in the form of a joint resolution, to be introduced in either house, its recommendations as to fiscal policy concerning state revenues and appropriations for the next biennium. Such information shall include: The estimated condition of the general fund on the succeeding July 1; the estimated general fund revenues during the ensuing biennium; the total amount of appropriations in the budget bills; the estimated condition of the general fund at the end of the ensuing biennium; and such other information as the committee deems pertinent.

16.49 Lobbying by officers. No department or any officer or employe thereof shall present any request for increased appropriations or any explanation, argument or appeal in support of any such request, except at a hearing of the governor or the joint committee on finance or at the request of either house or any committee thereof. Nor shall any department, officer or employe attempt to procure an increased appropriation other than through the regular and orderly presentation of budget requests in the manner provided in this chapter or to the governor in emergencies.

16.50 Departmental estimates. (1) **EXPENDITURES.** Each department except the legislature and the courts shall prepare and submit to the director an estimate by quarters of the amount of money which it proposes to expend upon each of its divisions, activities and functions. The director may waive the submission of estimates of other than administrative expenditures from such funds as he may determine. Estimates shall be prepared in such form and at such times as the director may require. Revised and supplemental estimates may be presented at any time under rules to be prescribed by the director.

(2) **ACTION THEREON BY DIRECTOR.** The director shall examine each such estimate to determine whether appropriations are available therefor and can be made without incurring danger of exhausting such appropriations before the end of the appropriation period and whether there will be sufficient revenue to meet such contemplated expenditures. If satisfied that such estimate meets these tests, he shall approve the same; otherwise he shall disapprove the same, in whole or in part, as the facts may require. If the director is satisfied that an estimate for any period is more than sufficient for the execution of the normal functions of a department, he may modify or withhold such estimates.

(3) **LIMITATION ON INCREASE OF FORCE AND SALARIES.** It is unlawful for any department, except the legislature and the courts, to increase the salary of any employe, to employ any additional employes, or to expend money or incur any obligations except in accordance with an estimate submitted to the director as provided in sub. (1) and which shall have been approved either by such director or by the governor. Approval by the director shall not be necessary for any expenditure which may be made only with the approval of the governor. No salary increase shall be approved unless it is within the salary ranges fixed by the personnel board.

(4) **APPEALS TO GOVERNOR.** Any department feeling itself aggrieved by the refusal of the director to approve any estimate, or any item therein, may appeal from his decision to the governor, who, after a hearing and such investigation as he deems necessary, may set aside or modify such decision.

(5) **DISBURSEMENTS.** The director shall not draw his warrant for payment of any expenditures incurred by any department for which the approval of the director or the governor is necessary under this section, unless such expenditure was made in accordance with an estimate submitted to and approved by the director or by the governor.

16.51 Department of administration; pre-auditing and accounting; additional duties and powers. The department of administration in the discharge of pre-auditing and accounting functions shall:

(1) SUGGEST IMPROVEMENTS. Suggest plans for the improvement and management of the public revenues and expenditures.

(4) DIRECT COLLECTION OF MONEYS. Except as otherwise provided by law, direct and superintend the collection of all moneys due the state.

(5) KEEP AND STATE ACCOUNTS. Keep and state all accounts in which the state is interested as provided in s. 16.52.

(6) AUDIT CLAIMS. Examine, determine and audit, according to law, the claims of all persons against the state as provided in s. 16.53.

(7) AUDIT CLAIMS FOR RETURN OF PRISONERS. Receive, examine, determine and audit claims, duly certified and approved by the state department of public welfare, from the county clerk of any county in behalf of such county, which are presented for payment to reimburse such county for certain expenses incurred or paid by it on and after July 1, 1937, in reference to all matters growing out of the return of escaped convicts, from the state prison, state reformatory and the Wisconsin home for women. Expenses shall only include such amounts as were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

16.52 Accounting. The department of administration shall:

(1) KEEP SEPARATE ACCOUNTS. Keep in his office separate accounts of the revenues and funds of the state, and of all moneys and funds received or held by the state, and also of all incumbrances, expenditures, disbursements and investments thereof, showing the particulars of every incumbrance, expenditure, disbursement and investment.

(2) REVENUE ACCOUNTS. Place revenue estimates on the books of accounts and credit actual receipts against them as of the last day of each quarter. Any receipts applying to a prior fiscal year received between August 16 and the next succeeding August 15 shall be credited by the director to the fiscal year in which said August 16 falls. Except in the case of revolving and continuing specific appropriations, any refund of a disbursement or reimbursement to a specific or sum sufficient appropriation, applicable to any prior fiscal year, received between said dates shall not be credited to any appropriation but shall be considered as a nonappropriated receipt.

(3) KEEP APPROPRIATION ACCOUNTS. Keep separate accounts of all appropriations authorizing expenditures from the state treasury, which accounts shall show the amounts appropriated, the amounts allotted, the amounts incumbered, the amounts expended, the allotments unincumbered and the unallotted balance of each appropriation.

(4) COUNTERSIGN RECEIPTS. Countersign all receipts issued by the state treasurer for any money paid to him and enter them to the credit of the proper fund and account authorized by law, and charge the treasurer with the same.

(5) ENCUMBRANCES AND CHARGES FOR PRIOR FISCAL YEAR. (a) On August 15 of each fiscal year all outstanding encumbrances entered for the previous fiscal year shall be transferred by the director as encumbrances against the appropriation for the current fiscal year, and an equivalent prior year appropriation balance shall also be forwarded to the current year by the director. Payments made on previous year encumbrances forwarded shall be charged to the current fiscal year. All other charges incurred during any previous fiscal year, and not evidenced by encumbrances, which are presented for payment between August 16 in any fiscal year and August 15 in the next succeeding fiscal year shall be entered as charges in the fiscal year in which said August 16 falls; but such charges shall not be paid if they exceed the unencumbered appropriation balance as of August 15 of the fiscal year preceding the year of payment.

(b) After August 15, departments shall be allowed not to exceed one month for reconciling August 15 prior year balances, correcting errors and certifying necessary adjustments to the central accounting office. No prior year corrections shall be permitted after September 15, it being incumbent upon all state departments to completely reconcile their records with the department of administration by said date. Each department shall delegate to some individual the responsibility of reconciling its accounts as herein provided and shall certify his name to the director. As soon as a reconciliation has been effected, the department shall advise the director in writing of such fact and shall forward to him a copy of such reconciliation. If any department fails to reconcile its accounts as provided in this subsection, the person responsible for such reconciliation shall not be entitled to any further compensation for salary until such reconciliation is effected.

(6) PRIOR APPROVAL OF PURCHASE ORDERS, ETC. (a) All purchase orders, contracts, or printing orders shall, before any liability is incurred thereon, be submitted to the director for his approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order shall govern the fiscal year chargeable. Upon such approval, the director shall immediately encumber all contracts or orders.

(b) Pursuant to s. 16.74 and subject to ss. 16.53 and 20.902 local purchases may be made or miscellaneous expenses incurred by any state department.

(c) Any department feeling itself aggrieved by the refusal of the director to approve any proposed encumbrance or payment under this section or s. 16.53 may appeal from his decision to the governor, who, after a hearing and such investigation as he deems necessary, may set aside or modify such decision.

(7) PETTY CASH FUND. A petty cash fund in an amount not exceeding \$500 from the operating appropriation may be established for such departments as the director may determine. The operation and maintenance of petty cash funds and the character of expenditures therefrom shall be prescribed by the director.

(8) REFUND ACCOUNTS. The director shall establish rules permitting state departments, authorized to do so by the governor, to issue checks to refund amounts not to exceed \$5 each. The director may establish petty cash funds for such departments for the purpose of paying refunds.

(9) DIRECTOR TO REQUIRE ACCOUNTS OF STATE MONEY, ETC. The director shall from time to time require all persons receiving money or securities or having the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him; and all such persons shall render such statements at such time and in such form as he shall require.

16.53 Pre-audit procedure. The department of administration shall pre-audit claims in accordance with the following procedures:

(1) CLAIMS AGAINST STATE. (a) *Audit.* All claims against the state, when payment thereof out of the state treasury is authorized by law, shall be audited by the director.

(b) *Pay rolls.* Pay rolls, to be entitled to audit, shall be certified by the proper officers who shall set forth the nature of the services rendered by each person named therein.

(c) *Other claims.* Unless otherwise provided by law, all other claims to be entitled to audit shall:

1. Specify the nature and particulars thereof on an official or original invoice.
2. Conform with statutory provisions and be necessarily incurred in the performance of duties required by the state service.
3. Include receipts for all items of travel expenditure in excess of \$2, unless other satisfactory evidence is accepted by the auditing officer.
4. Include the claimant's affidavit, or statement under the penalties of perjury, setting forth that all items of traveling expenses were incurred in the performance of duties required by the public service, and that the amount charged for transportation or for other expenses incident to travel was actually paid out and that no part of such transportation was had upon a free pass or otherwise free of charge. The blank form of such travel voucher shall be prescribed by the director.
5. Exclude items of travel expenditure for tips, portorage, parlor car seats other than sleeping car berths, or for expenses not necessarily incurred in the performance of duties required by the public service.
6. Exclude items of expenditure incurred while traveling outside the state by any officer or employe of any state department or institution thereof unless in the discharge of his duties required by the public service.
7. Exclude except upon the order of the governor items of expenditure for expenses of more than one officer or employe of any state department or institution thereof while attending any convention, association, society, business conference or meeting held outside the state. The governor may delegate the authority to approve items of expenditures for travel while attending meetings outside the state to his staff or to the department of administration. He may also determine whether such requests shall be made on an individual basis or by means of periodic reports from the several departments of the state. The governor may also require periodic reports on out of state travel made by the personnel of each state agency with such detail as he may desire. Any auxiliary, allied or subordinate society, association or meeting held in connection with or as a part of or immediately preceding, during or immediately following the time of any convention, association, society or meeting shall for the purposes of this section be considered as one convention, association, society, business conference or meeting.
9. Be approved by the proper state officer.

(ca) *Supervision of expenditures.* All state departments shall diligently review and supervise the travel expenditures of their employes and are authorized to adopt reasonable rules governing such expenditures.

(d) *Salaries, etc., when payable.* 1. The salaries, wages, compensation of and reimbursement to all state officers and employes, except as otherwise expressly provided, shall be paid at the beginning of the month following the month for the service rendered or disbursements made during such month, or at the termination of such service, and shall be charged against the proper appropriation for the respective office, commission, board or body with which the person receiving the same is connected.

2. All such salaries, wages or compensation not exceeding the rate of \$100 per month shall be payable semimonthly.

3. The salaries, wages, compensation of and reimbursement to legislative employes shall be paid on the last working day of the month in which the services were rendered.

(3) EXAMINATION OF CLAIMANTS. The director may examine under oath the claimant or any other person relative to any claim presented against the state, and may require oral or written answers as to any facts relating to the justness of the claim, or as to the liability of the state.

(4) AUDIT ORDER INDORSED ON CLAIM; RECORD. The order of the director auditing any claim shall be indorsed on or annexed to such claim, shall specify the amount allowed, the fund from which the same is payable, and the law that authorizes payment of such claim out of the treasury; and said order with the claim and all evidence relative thereto shall be filed and preserved in his office.

(5) WARRANTS; WHAT TO SPECIFY. The director shall draw his warrant on the state treasurer payable to the claimant for the amount allowed by him upon every claim audited under subsection (1), specifying from what fund to be paid, the particular law which authorizes the same to be paid out of the state treasury, and at the director's discretion the post-office address of the payee; and he shall not credit the treasurer for any sum of money paid out by him otherwise than upon such warrants.

(6) WARRANTS; SIGNATURES. Whenever it is impracticable for the director to personally sign warrants issued on the state treasury, his name may be signed thereto by one or more persons in his department designated by him or by the use of a mechanical device adopted by him for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in his office, shall honor warrants so signed, the same as if signed in person by the director, until such authority is revoked in writing.

(7) CERTIFICATION OF BOARDS, EVIDENCE OF CORRECTNESS OF ACCOUNT. The certificate of the proper officers of the board of regents of state colleges, the regents of the university of Wisconsin, the state department of public welfare, or the proper officers of any other board or commission organized or established by the state, shall in all cases be evidence of the correctness of any account which may be certified by them.

(8) CLAIMS REQUIRING LEGISLATIVE ACTION. All claims of every kind against the state requiring legislative action shall be made in duplicate, in the manner provided in sub. (1) and shall be filed in the office of the director. The director shall examine the same, see if ordered by competent authority and if properly made, designate the fund to which they are chargeable. The director shall as soon as practicable refer such claims to the claims commission established under s. 15.94 for its findings of fact, its conclusions, and its report thereon to the legislature for action. Whenever a bill appropriating money for a claim becomes a law the director, before drawing his warrant therefor on the treasurer, shall see that the proper account on which such appropriation is based is filed in his office.

(9) TRANSFER OF FUNDS APPROPRIATED. Whenever an appropriation has been made from the general fund in the state treasury to any other fund therein, the director in his discretion may withhold the transfer of such appropriation or any part thereof from the general fund until the same is required to pay claims duly audited.

Cross Reference: See 103.39 (2) for provisions for payment of wages and unused vacation allowances in the event of death of a state employe.

16.54 Acceptance of federal funds. (1) Whenever the United States government shall make available funds for the education, the promotion of health, the relief of indigency, the promotion of agriculture or for any other purpose other than the administration of the tribal or any individual funds of Wisconsin Indians, the governor on behalf of the state is authorized to accept the funds so made available. In exercising the authority herein conferred, the governor may stipulate as a condition of the acceptance of the act of congress by this state such conditions as in his discretion may be necessary to safeguard the interests of the state of Wisconsin.

(2) Whenever funds shall be made available to the state of Wisconsin through an act

of congress and acceptance thereof as provided in sub. (1), the governor shall designate the state board, commission or department to administer any of such funds, and the board, commission or department so designated by the governor is hereby authorized and directed to administer such fund for the purpose designated by the act of congress making an appropriation of such funds, or by the department of the United States government making such funds available to the state of Wisconsin.

(4) Any board, commission or department of the state government designated to administer any such fund, shall, in the administration of such fund, comply with the requirements of the act of congress making such appropriation and with the rules and regulations which may be prescribed by the United States government or by the department of the federal government making such funds available.

(5) Whenever any agency of the federal government shall require that as a condition to obtaining federal aid the state agency entrusted with the administration of such aid shall submit a budget of the contemplated expenditures for administrative purposes, the proposed budget for such expenditures shall, before it is submitted to the federal authorities for approval, first be approved by the governor and reported to the joint committee on finance while the legislature is in session and at other times to the board on government operations.

16.55 Uncollectible shortages. On or before March 1 of each odd year the attorney general shall notify the department of administration of the sums of money embezzled from the several state accounts during the prior 2 years indicating the amounts uncollected and uncollectible. The department of administration shall cause a bill to be prepared appropriating from the several state funds a sum sufficient to liquidate the uncollectible shortages in state accounts caused by such embezzlement, and submit such bill to the joint committee on finance for introduction.

SUBCHAPTER IV.

PURCHASING.

16.70 Purchasing; definitions. As used in ss. 16.70 to 16.81 the following terms shall mean:

(1) The term "office" includes both houses of the legislature and any department, board, commission or body connected with the state government, including all educational, charitable, correctional, penal and other institutions.

(2) The term "officer" includes each requisitioning officer of the legislature and the person or persons at the head of any such department, board, institution, commission or body, by whatever title any such person or persons may be elsewhere designated.

(3) The words "permanent personal property" include furniture and furnishings, typewriters, calculating, numbering and adding machines, apparatus, library and other books, motor vehicles, machinery and equipment, and any and all property which in the opinion of the director will have a life of more than one year.

(4) The words "contractual services" include gas, electricity, steam, telephone, telegraph, freight, express, drayage, towels, drinking water, postage, printing, binding and similar services, and any contract involving less than \$1,000 for construction work to be done for, or furnished to the state or any agency thereof.

16.71 Purchasing, powers. The department of administration shall purchase and may delegate to special designated agents the authority to purchase:

(1) All necessary materials, supplies, paper, coal, fuel, stationery, apparatus, furniture, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all state offices. All such materials, services and other things and expense furnished to any such office shall be charged to the proper appropriations of the offices to whom furnished, as provided in s. 20.125.

(2) Cement, machinery and other materials and supplies needed for the improvement or maintenance of highways and streets paid for in whole or in part with state funds. The officials of any town, village, city or county shall upon application to the department of administration be given information as to prices on any items mentioned in this subsection which are to be used on public works and paid for in whole or in part by public funds.

(3) All mimeograph, multigraph and similar work.

(4) Coal and other solid fuel for state owned or operated heating or heating and power plants wherein the annual requirements are in excess of 50 tons, to be purchased on contracts pursuant to specifications supplied under s. 16.90.

16.72 Purchasing, duties. (1) The department of administration shall check or have checked, as to quantity and quality, the delivery of all purchases.

(2) The department of administration shall prepare standard specifications, as far as possible, for all state purchases. By "standard specifications" is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the department of administration shall also seek and be accorded without cost, the assistance, advice and co-operation of other state offices and officers. Each specification adopted for any commodity shall, in so far as possible, satisfy the requirements of any and all offices which use it in common.

16.73 Purchase state-made articles. All materials, supplies, apparatus, equipment and other things required to be furnished by the department of administration which are manufactured at the state prison or at any of the other public institutions of the state shall be purchased by the said department of administration from said prison or institution.

16.74 Requisitions; disposal of surplus items. Except as otherwise provided in ss. 16.71 to 16.82 and in the rules adopted pursuant thereto, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any office only upon requisition to the department of administration. The department of administration shall prescribe the form, contents, number and disposition of requisitions and shall prescribe rules as to time and manner of submitting such requisitions for processing. It shall also provide rules for the transfer of surplus supplies, materials and equipment in any department to another which may have need therefor, and for the disposal by private or public sale of supplies, materials and equipment which are obsolete. In either case due credit shall be given to the department releasing same.

16.75 Buy on low bid, exceptions. (1) All materials, supplies, equipment and contractual services except as otherwise provided in subs. (3) and (7), when the estimated cost exceeds \$3,000, shall be purchased from the lowest responsible bidder. All orders awarded or contracts made by the department of administration shall be awarded to the lowest responsible bidder, taking into consideration the location of the institution or agency, the qualities of the articles to be supplied, their conformity with the specifications, the purposes for which they are required and the date of delivery, but preference shall always be given to materials, supplies and provisions of Wisconsin producers, distributors, suppliers and retailers. Bids shall be received only in accordance with such standard specifications as may be adopted by the department of administration in the manner provided in this subsection. Any or all bids may be rejected. Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be opened to public inspection. Due notice inviting proposals shall be published at least one day in the official state paper and the bids shall not be opened until at least 7 days from the last date of publication and 10 days from the first date of publication shall have elapsed. The official advertisement shall give a clear description of the article to be purchased, the amount of the bond or check to be submitted as surety with the bid and the date of public opening.

(3) When the department of administration believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, it shall have power and authority to purchase said articles without the usual statutory procedure. All equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of the detailed specifications submitted with the bids, and after due advertisement as hereinbefore provided. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

(4) The department of administration shall have power to let contracts in excess of funds available, provided that any such contract shall state in substance that its continuance beyond the limits of funds already available shall be contingent upon appropriation of the necessary funds.

(5) The department of administration shall have power to require of bidders or contractors such sureties as, in its judgment, are deemed advisable. It shall have power to decide as to the responsibility and competency of such bidders and sureties. A bond furnished by a surety company authorized to do business in this state, for the proper performance of each contract may be required in the discretion of the department of administration.

(6) Subsections (1) to (5), except as to their requirements in connection with printing and stationery, shall not be deemed to apply to the purchase of supplies, materials or

equipment from the federal government or any agency thereof and, with the approval of the governor, may be waived with respect to purchases from private sources when such action is deemed to be in the best interests of the state.

(7) Stationery and printing shall be purchased from the lowest responsible bidder without regard to the amount of the purchase, except when the department of administration exercises the discretion vested in it by s. 16.82 (4).

History: 1961 c. 532.

16.76 Contracts, contents, arbitration clause. (1) All contracts for materials, supplies, equipment and contractual service shall run to the state of Wisconsin, and shall be signed by the director. All contracts shall contain a clause providing for arbitration of disputes between the state and the contractor regarding quality and quantity.

(2) The department of administration may enter into continuing agreements and flexible contracts in anticipation of the needs of departments, which provide for deliveries of specified articles at stated prices, which prices may be lowered through market conditions, but not increased at any time during the life of said continuing agreements or flexible contracts, except as may result from adjustments of the base price in contracts for coal let upon specifications as provided in s. 16.90 (1). No such continuing agreements or flexible contract shall exceed one year's duration.

16.765 Nondiscriminatory contracts. (1) Contracting agencies of the state shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employe or applicant for employment because of race, religion, color or national origin.

(2) Contracting agencies of the state shall include the following provision in every contract executed by them:

(a) In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employe or applicant for employment because of race, religion, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available for employes and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

(3) Subsections (1) and (2) shall not apply to contracts to meet special requirements or emergencies, if approved by the director of the fair employment division of the industrial commission.

(4) The contracting agencies of the state shall take appropriate action to revise the standard government contract forms in accordance with this section.

(5) The head of each contracting agency of the state shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination provisions prescribed by this section, according to procedures recommended by the fair employment division of the industrial commission. This division shall make recommendations to the contracting agencies for improving and making more effective the nondiscrimination provisions of such contracts. All contracting agencies of the state are directed to cooperate with the fair employment division, and, to the extent permitted by law, to furnish the division such information and assistance as it may require in the performance of its functions under this section. The fair employment division shall establish such rules as may be necessary for the performance of its functions under this section, and shall make annual reports on its progress to the governor.

(6) The fair employment division of the industrial commission may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. Complaints received shall be transmitted by the division to the appropriate contracting agencies to be processed in accordance with the agencies' procedure for handling such complaints. Each contracting agency shall report to the division the action taken with respect to all complaints received by the agency, including those transmitted by the division. The division shall review and analyze the reports submitted to it by the contracting agencies.

(7) When a violation of this section has been determined by the industrial commission following investigation by the fair employment division the state agency shall be so advised and thereafter shall:

- (a) Immediately inform the violating party of the violation.
- (b) Direct the violating party to take action necessary to halt the violation.
- (c) Direct the violating party to take action necessary to correct, if possible, any injustice to any person adversely affected by the violation.

(d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the state agency involved.

(8) If further violations of this section are committed during the term of the contract the state agency involved may, in its discretion, permit the violating party to complete the contract, after complying with this section, but thereafter request the fair employment division to place the name of the party on the ineligible list for state contracts, or the state agency may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

(9) The names of parties who have had contracts terminated under this section shall be placed on an ineligible list for state contracts, maintained by the fair employment division. No state contract shall be approved and let to any party on such list of ineligible contractors. The fair employment division may remove the name of any party from the ineligible list of contractors when, following investigation, the fair employment division determines the contractor's employment practices comply with this section and provide adequate safeguards for its observance.

(10) The fair employment division of the industrial commission shall encourage the furtherance of an educational program by employer, labor, civic, educational, religious and other voluntary nongovernmental groups in order to eliminate or reduce the basic causes and costs of discrimination in employment. It may establish and maintain co-operative relationships with agencies of local government, as well as with nongovernmental bodies, to assist in achieving the purposes of this section.

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

16.77 Audit of bills; illegal contracts; actions to recover. No bill or statement for work or labor performed under purchase orders or contracts issued by the director or his designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any office shall be paid until such bill or statement shall have been approved by the director or his designated agents. Whenever any officer or any subordinate of such officer shall contract for the purchase of supplies, material, equipment or contractual services contrary to the provisions of ss. 16.71 to 16.82 or the rules made pursuant thereto, such contract shall be void, and any such officer shall be liable for the cost thereof, and if such supply, material, equipment or contractual services so unlawfully purchased has been paid for out of public moneys, the amount thereof may be recovered in the name of the state in an action filed by the attorney general against such officer or subordinate and his bondsmen. Such cause of action shall be deemed to have arisen in Dane county, and summons shall be served therein as in civil actions.

16.78 Warehouses. The department of administration shall have authority to establish necessary warehouses wherein it shall be permitted to store such staple and standard articles as are needed by various state officers.

16.79 Duties of department of administration. The department of administration shall have power and it shall be its duty:

(2) To purchase from time to time so many copies of the latest digest of the Wisconsin reports, and such volumes of said reports, as may be required to complete such sets of said reports as may be called for to supply new courts and new counties; and also such volumes of said reports as may be required by the state librarian to make the exchanges provided for by law with other states and territories;

(4) (a) To distribute in pamphlet form such laws as may be required to meet the public demand, including the constitution and additional copies of election laws; also blank nomination papers and other election blanks and supplies, not otherwise provided for, for use of candidates, committees, and by city and county clerks. Such laws, blanks and supplies shall be sold by said department of administration at cost, plus 15 per cent and necessary postage or other transportation charges.

(b) The department of administration shall confer with the secretary of state and the attorney general as to what law pamphlets, blanks and other election supplies shall be so printed, or purchased, and offered for sale.

(5) To determine the form, style, quantity, and method of reproduction, when not specifically prescribed by law, of all materials offered by state departments and agencies for reproduction. Any state department or agency which objects to the determination made under this subsection may appeal the decision of the department of administration to the governor.

(6) To contract for or to perform all mimeograph, multigraph, multilith or similar reproduction services.

(7) The authorization to perform multilith or similar reproduction services under subs. (5) and (6) or under s. 16.82 (4) shall not extend to the use of metal plates.

(8) To sell copies of the inventory of Wisconsin natural resources at cost, plus 20 per cent. The proceeds of such sales shall be paid within one week into the general fund.

16.80 Records of state offices. (1) COMMITTEE ON PUBLIC RECORDS CREATED. For the purpose of the permanent preservation of important state records and to provide an orderly method for the disposition of other state records, there is established, under the executive department a permanent committee on public records, to consist of the governor as chairman, the director of the state historical society, the attorney general and the state auditor, or their designated representatives.

(2) DEFINITIONS. As used in this section:

(a) "Public records" means all records, documents, correspondence, original papers, files, manuscripts or other materials bearing upon the activities and functions of the state agency or its officers or employes except the records and correspondence of any member of the state legislature.

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

(c) "Committee" means the committee on public records.

(3) DUTIES OF THE COMMITTEE. The committee:

(a) Shall safeguard the legal, financial and historical interests of the state in public records.

(b) Upon the request of any state agency, may order upon such terms as the committee finds necessary to safeguard the legal, financial and historical interests of the state in public records, the destruction, reproduction by microfilm or other process, temporary or permanent retention or other disposition of public records.

(c) Shall make reasonable rules to carry out the purposes of this section.

(d) Establish a system for the protection and preservation of essential public records as directed by s. 22.03.

(4) APPROVAL TO DESTROY. No public records may be destroyed without the written approval of the originating office or its legal successor and the written approval of the committee on public records.

(5) PROCEDURE FOR DISPOSITION OF NONCURRENT PUBLIC RECORDS. To secure the destruction or other disposition of noncurrent public records, the head of any state agency or his designated representative shall forward to the committee an inventory of the records involved, certifying that as far as his agency is concerned the records may be destroyed immediately or at some specified future date. Such records shall be open at all times to inspection by the members of the committee or their designated representatives.

(6) PROCEDURE FOR PHOTOGRAPHIC REPRODUCTION OF PUBLIC RECORDS. Any state agency desiring to photographically reproduce public records in order to permit the destruction of original records having permanent value may submit a request to the committee to reproduce photographically such records together with such information as the committee requires. Upon receiving written approval from the committee, any state agency may cause any public record to be photographed, microfilmed or otherwise reproduced by photography. The photographic reproduction shall comply with this section and the rules adopted pursuant thereto.

(7) WHEN REPRODUCTION DEEMED ORIGINAL RECORD. Any photographic reproduction shall be deemed an original record provided:

(a) That the device used to reproduce the records on film is one which accurately reproduces the content of the original;

(b) That each reel or part of a reel of microfilm carries at the beginning a title target giving the name of the agency, brief title of records series, the disposal authorization number assigned by the committee and at the end the camera operator's certificate showing the disposal authorization number, reel number, brief title of record series, a brief description of the first and last document on the reel or part of reel of film, together with a statement signed by the operator substantially as follows: I certify that I have on this . . . day of . . . , 19 . . . , photographed the above described documents in accordance with the standards and procedures established by s. 16.80.

(c) That a statement shall be filed with the committee that the reproduction is upon film which complies with the minimum standards of quality for permanent photographic records, as established by the committee, and that the film was processed and developed in accordance with minimum standards established by the committee. The certificate of

the operator and the statement of compliance shall be presumptive evidence that all conditions and standards prescribed by this section have been complied with.

(8) **ADMISSIBLE IN EVIDENCE.** (a) Any photographic reproduction meeting the requirements of this section shall be taken as, stand in lieu of and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of any photographic reproduction on film made as provided by this section and certified by the custodian as provided in s. 327.08 shall have the same force as the photographic reproduction itself.

(9) **PRESERVATION OF REPRODUCTIONS.** Provision shall be made for the preservation of any photographic reproductions of public records in conveniently accessible files in the agency of origin or its successor or in the state archives.

(10) **CONTRACTS FOR PHOTOGRAPHIC REPRODUCTION.** (a) Contracts for photographic reproduction of records to be made as provided in this section shall be made by the director as provided in s. 16.71 and the cost of making such photographic reproduction shall be paid out of the appropriation of the state agency having the reproduction made.

(11) **MISCELLANEOUS REPRODUCTION OF RECORDS** (a) Each state agency shall, when providing photographic copies or enlargements of records, require of the requestor payment of the actual cost thereof. Fees collected shall be paid by the state agency into the fund from which its appropriation was made and credited to such appropriation, except as otherwise provided by law.

(b) Nothing in this section shall be construed to prohibit the responsible officer of any state agency from reproducing any document whatsoever by any method when it is necessary for him to do so in the course of carrying out his duties or functions in any case other than where the original document is to be destroyed; but no original public record shall be destroyed after microfilming or other reproduction without the approval of the committee as provided in sub. (3).

(12) **ACCESS TO PHOTOGRAPHIC REPRODUCTIONS.** All persons may examine and use the photographic reproductions of public records subject to such reasonable rules as may be made by the responsible officer of the state agency having custody of the same.

(13) **HISTORICAL SOCIETY AS DEPOSITORY.** (a) The state historical society, as trustee for the state, shall be the ultimate depository of the archives of the state, and the committee may transfer to the said society such original records and reproductions as it deems proper and worthy of permanent reproduction. The society may deposit in the regional depositories established under s. 44.10, title remaining with the society, the records of state agencies or their district or regional offices which are primarily created in the geographic area serviced by the depository, but the records of all central departments, offices, establishments and agencies shall remain in the main archives in the capital city under the society's immediate jurisdiction. Nothing in this subsection nor in s. 44.01 shall be construed to prevent the society's taking such steps for the safety of articles and materials entrusted to its care in library, museum or archives, including temporary removal to safer locations, as may be dictated by emergency conditions arising from a state of war, civil rebellion or other catastrophe.

(b) The state historical society shall, in co-operation with the staff of the committee, as soon as practicable, adequately and conveniently classify and arrange such state records or other official materials as may be transferred to its care, for permanent preservation under this section and keep the same accessible to all persons interested, under such proper and reasonable rules as the historical society may find advisable. Copies therefrom shall, on application of any citizen of this state interested therein, be made and certified by the director of said historical society, or his authorized representative in charge, which certificate shall have the same force as if made by the official originally in charge of them.

History: 1961 c. 567.

16.81 Records management service. The executive department is authorized to establish and maintain a records management service in the department of administration:

(1) To advise state departments on the standards, procedures and techniques required for the efficient creation, use and destruction of state records.

(2) To establish and maintain intermediate records storage centers at such major installations as the director deems advisable.

(3) To advise the committee on public records regarding the desirability of approving departmental requests to destroy records.

16.82 Powers of department of administration. In addition to other powers vested in the department of administration, it and its duly authorized representatives:

(1) Shall have access at all reasonable times to all state offices;

(2) May examine all books, records, papers and documents in any such office or institution as pertain directly or indirectly to the purchase of, control of, or distribution of supplies, materials and equipment;

(3) May require any officer to furnish any and all reasonable data, information or statement relating to the work of his department.

(4) (a) May reproduce printing of classes 3 and 4, class 1 job printing, class 1 book printing not otherwise required to be printed by the contract printer, and excerpts from the statutes under class 2, by machines or processes known as multigraph, multicolor, multilith, mimeograph or photographic or by a combination of them, or by similar machines or processes. Agencies performing work under this section shall make reports as are required to the department of administration which shall compile and prepare such summary reports as the board on government operations requests.

(b) In deciding whether to use this discretion, the director shall take into consideration the availability of machines, equipment and personnel for such work in any agency; the maintenance of a uniform work load for employes of the department of administration; the urgency of the work; the relative cost of reproduction by the department of administration as against the cost of outside work; the preference of the state agency ordering the work.

(c) The cost of work done under this subsection shall be charged to the agency ordering the work.

(d) This subsection and s. 35.015 shall be liberally construed so as to effectuate the legislature's intent to vest broad discretion in the director to determine what public printing in the classes covered shall be done by the state itself, and which by the state printer. Such liberal construction shall extend to the director's determination to use the power conferred, to the determination of what work is to be included in the classes covered, and to the determination of whether a given machine or process is similar to those enumerated.

History: 1961 c. 532.

SUBCHAPTER V.

ENGINEERING.

16.85 Department of administration; powers, duties. The department of administration shall exercise the powers and duties prescribed by ss. 16.85 to 16.91:

(1) To take charge of and supervise all engineering or architectural services or construction work performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit-sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 14.89, 36.06, and 37.02, except the engineering, architectural and construction work of the state highway commission and the engineering service performed by the industrial commission, department of taxation, public service commission, board of health and other departments, boards and commissions when such service is not related to the maintenance, construction and planning of the physical properties of the state;

(2) To furnish engineering and architectural services whenever requisitions therefor are presented to him by any department, board, commission or officer;

(3) To act and assist any department, board, commission or officer requesting such co-operation and assistance, in letting contracts for engineering or architectural work authorized by law and in supervising the work done thereunder;

(4) To approve the appointment of a director connected with each state-owned power and electric plant and pumping and heating station and to provide for the methods of operating said plants and stations and to design records and forms for reporting accurately the cost per unit of product or service. The superintendent or other person having charge of said plants shall not only report to his governing body but to the director in the manner provided and at such times as the director shall determine.

(5) (a) To have charge of, operate, maintain and keep in repair the state capitol building and the grounds connected therewith, the executive residence, the light, heat and power plant, state office buildings and such other state properties as may be designated by law; to appoint such number of policemen as may be necessary to safeguard all public property placed by law in his charge, and personally or by any such policeman, to arrest, with or without warrant, any person violating any law within or around any of said properties. Nothing in this paragraph limits or impairs the duty of the chief and each

policeman of the police force of the municipality in which the property is located to arrest and take before the proper court or magistrate persons found in a state of intoxication or engaged in any disturbance of the peace or violating any law of the state, except s. 15.90 (2), in or around any of said properties located in the municipality in which the property is located, as required by s. 62.09 (13). Full-time domestic employes who work in the executive residence shall be appointed on a project basis.

(b) To assign each state officer entitled by law to be supplied with office room to a suitable room or rooms in the capitol, other than to the rooms reserved by either house of the legislature, so long as rooms for that purpose are available. In assigning officers to rooms in the capitol preference shall be given to those who are especially entitled by law to such rooms over those not so especially entitled to them. All assignments of rooms shall be subject to the approval of the governor. Applications for temporary quarters for committees or other bodies shall be made to the director who shall have authority to make assignments therefor.

(c) To let concessions for periods not exceeding 2 years for the operation of a barber shop, and cigar stand in the capitol, under such terms and conditions as will in his judgment be most favorable to the state, and in accordance with s. 47.09;

(6) To approve the appointment, subject to the classified service, of a principal engineer or architect for departments, boards and commissions and when such continuous service is needed. No such engineer or architect shall be employed without the written approval of the director.

(7) To rebuild and repair discarded machinery of the several state institutions when found feasible, and put the same back into service in the same department or in any other state department, and upon requisition to furnish services and material and loan equipment at fair rentals based on the cost thereof, in connection with the construction, operation and maintenance of heating and power plants, utilities and equipment.

(8) The director or his designated assistants shall make a biennial inspection of each building of each institution of the state. Upon completion of such inspection, he shall report his findings to the governor and to the board, commission or officer in charge of such institution.

(9) To prepare a Wisconsin State Capitol Guide Book in pamphlet form with appropriate cover containing information regarding the state capitol, its buildings and grounds to be sold as near cost as practicable.

(10) To prepare in co-operation with the state agencies concerned, plans for the future growth and development of various state institutions and to serve as technical advisor to the state building commission in connection with the development of the state long-range building program provided for in ss. 13.351 and 14.86.

(11) To have the responsibility, subject to approval by the governor, for all functions relating to the acquisition, allocation and utilization of office space by the state.

(12) To require of the several agencies of state government all information necessary for the planning and forecasting of the space needs of state government on a comprehensive long-range basis. To this end the department of administration shall co-operate with the state building commission in order that the projected program of new construction will conform with the state's long-range building plans.

(13) To approve administrative district boundaries of the several state agencies unifying them where possible in order to facilitate the acquisition and maintenance of suitable district headquarters in the several parts of the state.

(14) POWERS, DUTIES; DEPARTMENTAL TRANSFER. No public monument, memorial, or work of art, except such as are or become the property of the university or the state historical society of Wisconsin, shall be constructed by or become the property of the state by purchase wholly or in part from state funds, or by gift or otherwise, until the same has been approved by the department of administration as to design, structure, composition and location and arrangements made for its care and maintenance which are satisfactory to the department of administration. "Work of art" means any painting, portrait, mural decoration, stained glass, statue, bas-relief, ornament, tablets, fountain or any other article or structure of a permanent character intended for decoration or commemoration. The governor, the legislature or any committee thereof may, at any time, request a report as to the recommendations of the department of administration on any of the above matters and the department shall make such report within 30 days of the receipt of such request.

(a) On July 1, 1961, the fine arts commission shall cease to exist as a separate commission and all of the functions, property, documents and records of the fine arts commission shall be transferred to the department of administration.

(b) All matters pending before the fine arts commission shall be completed by the department of administration.

(c) All unencumbered balances in the appropriation for the fine arts commission shall be assigned to the department of administration to be used exclusively for the functions formerly performed by the fine arts commission.

History: 1961 c. 191 ss. 3, 106; 1961 c. 622, 645.

16.86 Supervision by principal engineer or architect. The engineer or architect employed pursuant to s. 16.85 (6) shall have charge and supervision of the work of the department, board, commission or officer by whom employed, subject, however, to the general direction of the department of administration and the immediate direction of the department, board, commission or officer.

16.87 Approval of contracts by director and governor; audit. Every contract for engineering or architectural service and every contract involving an expenditure of \$2,500 or more for construction work to be done for, or furnished to the state, or any department, board, commission or officer thereof, shall, before it becomes valid or effectual for any purpose, have indorsed thereon in writing the approval thereof of the director or his designated assistant, and the approval of the governor; and no payment or compensation for work done under any contract involving \$2,500 or more, except highway contracts, shall be made unless the written claim therefor is audited and approved by the director.

Engineering surveying services are, but service within the meaning of 16.87. 49 Atty. land surveying services are not, engineering Gen. 70.

16.88 Charges against projects. The cost of services furnished pursuant to s. 16.85 (2) to (4), (6) and (7) shall be charged to and paid out of available funds for the respective projects, whenever in the judgment of the director the charges are warranted and the cost of the services can be ascertained with reasonable accuracy.

16.89 Construction controlled by chapter 16. No department, board, commission, officer or agent of the state shall employ engineering or architectural services or expend money for construction purposes on behalf of the state, except as provided in this chapter. No major repair or major improvement shall be authorized or undertaken by the board, commission or officer in charge of any institution prior to the completion of a report of the director, except in cases of emergency, which shall be first reported to the director before any work thereon is commenced.

16.90 Fuel for state heating and power plants. The director is authorized and he shall:

(1) Prepare all specifications for contracts for fuel for all state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms of such fuel. All such specifications where feasible shall provide for purchase of such fuel on a heating value and quality basis and may provide for an adjustment of the base price as affected by an increase or decrease in the miners' wage scale during the life of the contract in the district in which the coal purchase is produced, or for increases or decreases in production costs of other fuels.

(1a) Prepare all specifications for contracts for lubricants for all state-owned or operated heating or heating and power plants and make such tests in connection therewith as may be deemed necessary.

(2) Test all fuel purchased for state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms and where purchased on a heating value and quality basis.

(3) Make such rules and regulations as he may deem necessary, not inconsistent with this section, to promote efficiency and economy in the testing, handling, storing and use of such fuel.

16.91 Contracts for fuel. No contract for the purchase of fuel for any state-owned or operated heating or heating and power plant wherein the annual requirement is in excess of 12,500 therms shall be binding unless purchased upon specifications furnished by the director. Payments for fuel delivered under such contracts and for freight, switching and hauling charges thereon shall be made upon vouchers approved by the director, but upon being audited and paid shall be charged against the proper appropriation to the officer, department, board or commission which has jurisdiction over the institution at which such fuel is used. The director shall quarterly report to each such officer, department, board or commission the total of such payments charged to their respective appropriations and institutions, but approval of such payments by them shall not be necessary.