

**State of Wisconsin**

**DEPARTMENT OF EMPLOYMENT RELATIONS**

- DIVISION OF MERIT RECRUITMENT AND SELECTION -
- DIVISION OF COMPENSATION AND LABOR RELATIONS -

**Date:** April 18, 2002

**Locator No:** MRS-225  
CLR/POL- 72

**Subject:** Notification of Chapter ER-29 and 30  
and ER-MRS 30, Wis. Adm. Code,  
Rule Changes

The purpose of this bulletin is to notify state agencies of amendments to Chapters ER 29 and 30 and ER-MRS 30, Wis. Adm. Code, relating to the Career Executive program. The changes become effective May 1, 2002. The ER and ER-MRS rules changes are attached along with Wisconsin Human Resources Handbook Chapter 156: Career Executive Recruitment.

Changes to the ER rules include:

- Updated pay range references consistent with the Compensation Plan.
- Elimination of references to the compensation provisions that no longer apply.
- Amended rules to make career executive temporary assignment regulations consistent with those for non-career executive employees.

Changes to the ER-MRS rules include:

- Flexible certification under s. 230.25, Wis. Stats.
- Career executive transfer consistent with permissive transfer provisions found elsewhere in the ER-MRS Adm. Code.
- A six-month trial period for career executive movement between-agencies.
- Career executive layoff consistent with Chapter ER-MRS 22 layoff rules for other non-represented employees.
- Elimination of provisions for opting in/out of the career executive program for new career executive incumbents.

The complete text of Chapters ER 29 and 30 and ER-MRS 30 can be found on the internet at the following addresses, respectively:

<http://www.legis.state.wi.us/rsb/code/er/er029.pdf>

<http://www.legis.state.wi.us/rsb/code/er/er030.pdf>

<http://www.legis.state.wi.us/rsb/code/er-mrs/er-mrs030.pdf>

Policy questions on Chapters ER 29 and 30, Wis. Adm. Code, should be addressed to Llean White at (608) 267-0344 or [Llean.White@der.state.wi.us](mailto:Llean.White@der.state.wi.us). You can also fax her at (608) 267-1020.

Career executive compensation questions should be addressed to Paul Ostrowski at (608) 267-0343 or [Paul.Ostrowski@der.state.wi.us](mailto:Paul.Ostrowski@der.state.wi.us) or by faxing him at (608) 267-1020.

Policy questions on Chapter ER-MRS 30, Wis. Adm. Code, should be addressed to Denny Huett at (608) 266-7296 or [Denny.Huett@der.state.wi.us](mailto:Denny.Huett@der.state.wi.us). You can also fax him at (608) 267-1000.

Questions on managing recruiting and staffing for individual career executive staffing transactions should be addressed to the appropriate DMRS Staffing Analyst assigned to your agency.

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Peter D. Fox, Secretary  
Department of Employment Relations

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James A. Pankratz, Administrator  
Division of Compensation and Labor Relations

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Michael Soehner, Administrator  
Division of Merit Recruitment and Selection

Attachments:

Wisconsin Human Resources Handbook Chapter 156: Career Executive Recruitment  
Chapters ER 29 and 30  
ER-MRS 30, Wis. Adm. Code, as revised

## NOTICE OF PUBLIC HEARING

### Department of Employment Relations

**NOTICE IS HEREBY GIVEN** that pursuant to ss. 230.05(5), Stats., and interpreting s. 230.05(1), Stats., the Department of Employment Relations will hold a Public Hearing at the time and place shown below to consider the creation of permanent rules relating to career executive employment and various technical changes to bring the rules into consistency with the statutes and compensation plan.

**Date:** January 22, 2002  
**Time:** 1:00 P.M. to 2:00 P.M.  
**Location:** 3<sup>rd</sup> Floor Training Room  
Department of Employment Relations  
345 West Washington Avenue  
Madison, WI 53703

The hearing site is accessible to persons with disabilities. If you need an interpreter, materials in alternate format or other accommodations for this meeting, please inform the contact person listed at the end of this notice before the hearing.

Written comments on the rules may be sent to the contact person by January 27, 2002. Written comments will receive the same consideration as written or oral testimony presented at the hearing. A copy of the rule is printed below.

#### **ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOYMENT RELATIONS**

On June 9, 1999, the Joint Committee on Employment Relations (JCOER) approved the consolidation of certain positions assigned to former pay range 17 and all positions in former pay ranges 18 and 19 into compensation broadband 81-02 for non-represented positions in these ranges. Before this consolidation many non-represented pay range 18 positions were granted career executive status along with positions in the compensation broadband 81-01. Positions in pay range 17 were not eligible to be included in the career executive program under the provisions of the Wisconsin Administrative Code. Prior to March 12, 2000, there were approximate 900 positions in the career executive program. These positions performed general management duties. With the consolidation of broadband 81-02, the number of career executive positions expanded to 1500 including management positions responsible for highly technical programs and positions requiring various professional certifications or expertise. These rule changes update the pay range references consistent with the compensation plan approved by JCOER. The changes eliminate references to compensation provisions that no longer apply. ER 30.085 is amended to make career executive temporary assignments regulations consistent with those for interchange of non career executive employees

1. S. 230.04(5), Stats, grants the Secretary of Employment Relations authority to promulgate rules on all matters relating to the administration of the department and the performance of the duties assigned to the secretary.
2. S. 230.24, Stats., grants the Secretary of Employment Relations authority to develop a career executive program.

#### **TEXT OF PROPOSED RULE**

##### **Chapter ER 29**

##### **COMPENSATION ADMINISTRATION PROVISIONS**

**Section 1.** ER 29.04 (10) is amended to read:

**ER 29.04 (10)** Career executive reassignment or voluntary movement to a class ~~assignment~~ assigned to the same pay range.

**Section 1.** ER 30.01 is created to read:

**ER 30.01 Included classifications.** Designation of a classification as a career executive classification by the secretary is authorized under s. 230.24 (1), Stats. All permanent positions in classifications assigned to pay range 81-01 or 81-02 shall be designated as career executive positions and shall be governed by the provisions of the career executive program.

**Section 2.** ER 30.02 is repealed and recreated to read:

**ER 30.02 Included positions.** The secretary may include a permanent position in any classification, other than one designated as a career executive classification, in the career executive program after consulting with the appointing authority for the position, and after an analysis to determine if the position satisfies all of the following career executive program requirements:

1. The position meets the definition of management under s. 111.81 (13), Stats.
2. The position is predominately administrative in nature.
3. The position is assigned to a classification that is assigned to a nonrepresented pay range that the secretary has determined to be comparable to pay ranges 81-01 or 81-02.

**Section 3.** ER 30.03 is created to read:

**ER 30.03 Eligible employees.** Career executive status is limited to permanent classified appointments.

**Section 4.** ER 30.065 is repealed.

**Section 5.** ER 30.085 is amended to read:

**ER 30.085 Career executive temporary assignment.** A career executive employe may be assigned to a position for employe development purposes or to complete a special project for a duration not to exceed 2 4 years. The employe's classification and pay status shall not be affected. ~~An intra-agency temporary assignment requires the written agreement of the employe and the appointing authority. An inter-agency temporary assignment requires the written agreement of the employe, and the appointing authorities of both the sending and receiving agencies. The appointing authority in an intra-agency temporary assignment or the appointing authority of the receiving agency in an inter-agency temporary assignment shall send a copy of the written agreement to the secretary prior to the effective date of the assignment. If the employe is expected to return to the sending agency upon completion of the temporary assignment, the employe and the appointing authority of the sending agency shall develop a formal leave agreement under s. ER 18.14 (2)(a).~~

**Section 6.** ER 30.09 is repealed and recreated to read:

**ER 30.09 Pay adjustments resulting from career executive reassignment or voluntary movement.** Upon reassignment as defined under s. ER-MRS 30.07 (1) or voluntary movement to a position allocated to a classification assigned to the same, to a higher, or to a lower pay range, the career executive employe's pay shall be determined in accordance with the provisions of the compensation plan.

### **EFFECTIVE DATE**

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)(intro), Stats.

**FISCAL ESTIMATE**

Flexible certification for career executive vacancies will simplify and speed the hiring process for vacant positions and so save time for state agencies. Revised layoff rules for career executives will result in retaining for the state service its most effective and efficient personnel. Allowing permissible transfers of career executives between agencies will speed staffing vacant positions as well as increase opportunities for career executive incumbents. Increasing the trial or probationary period from three months to six months on a career executive move between agencies will give hiring officials the extra time needed to evaluate the performance of employees in these critically important jobs. Eliminating the career executive opt in/out provision upon placement of a position in the career executive program will eliminate wasted administrative effort which currently adds no value. These changes will have no direct fiscal effect other than administrative efficiency.

**CONTACT PERSON**

Elizabeth Reinwald  
Department of Employment Relations  
345 West Washington Avenue  
Madison, WI 53703  
Elizabeth.Reinwald@der.state.wi.us  
608-266-5316

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Peter D. Fox, Secretary  
Department of Employment Relations

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Date

## **NOTICE OF PUBLIC HEARING**

### **Division of Merit Recruitment and Selection** **Department of Employment Relations**

**NOTICE IS HEREBY GIVEN** that pursuant to ss. 230.05(5), Stats., and interpreting s. 230.05(1), Stats., the Division of Merit Recruitment and Selection in the Department of Employment Relations will hold a Public Hearing at the time and place shown below to consider the creation of permanent rules relating to certification for employment consideration, probationary periods, transfers of career executive employees and various technical changes to bring the rules into consistency with the statutes and compensation plan.

**Date:** January 22, 2002  
**Time:** 1:00 P.M. to 2:00 P.M.  
**Location:** 3<sup>rd</sup> Floor Training Room  
Department of Employment Relations  
345 West Washington Avenue  
Madison, WI 53703

The hearing site is accessible to persons with disabilities. If you need an interpreter, materials in alternate format or other accommodations for this meeting, please inform the contact person listed at the end of this notice before the hearing.

Written comments on the rules may be sent to the contact person by January 27, 2002. Written comments will receive the same consideration as written or oral testimony presented at the hearing. A copy of the rule is printed below.

#### **ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOYMENT RELATIONS**

On June 9, 1999, the Joint Committee on Employment Relations (JCOER) approved the consolidation of certain positions assigned to former pay range 17 and all positions in former pay range 18 and 19 into compensation broadband 81-02 for non-represented positions in these ranges. Before this consolidation many non-represented pay range 18 positions were granted career executive status along with positions in the compensation broadband 81-01. Positions in pay range 17 were not eligible to be included in the career executive program under the provisions of the Wisconsin Administrative Code. Prior to March 12, 2000, there were approximate 900 positions in the career executive program. These positions performed general management duties. With the consolidation of broadband 81-02, the number of career executive positions expanded to 1500 including management positions responsible for highly technical programs and positions requiring various professional certifications or expertise. When the pool of career executive employees was smaller and their expertise was always of a general administrative nature, rules were developed to treat this pool as one, and separate from other employees, for purposes of certification for employment consideration, probationary periods, transfers and layoff consideration.

These rule changes make certification for employment consideration, probation and transfer for career executive employees consistent with non-career executive employees. For layoff consideration, career executive employees are to be grouped with employees in the same area of expertise and pay range instead of with all career executive employees. The amendment to ER-MRS 30.99 removes the option of incumbents of positions placed within the career executive programs to remain outside the program. This provision was established when the career executive program was new and many existing positions were being placed in it. No position has been placed in the career executive program in years, without the incumbent opting in.

2. S. 230.05(5), Stats., grants the Administrator of the Division of Merit Recruitment and Selection authority to promulgate rules on all matters relating to Subchapter II of Chapter 230, Stats., for administration of the civil service.
2. S. 230.24, Stats., grants the Administrator authority to create rules to accomplish the purposes of a career executive program.

## **TEXT OF PROPOSED RULE**

**Section 1.** ER-MRS 30.03 (3) is repealed:

**Section 2.** ER-MRS 30.05 (1) and (2) are amended to read:

ER-MRS 30.05 Certification. ~~(1) The highest ranking candidates shall be determined through a comparison of their qualifications, including technical or professional qualifications, where applicable, with the qualifications requirements for the position as determined through position analysis. All such candidates shall meet the standard for the position as established by the administrator. Except as provided in ss. ER-MRS 30.07, 30.08, and 30.11(2), certification for appointment to a vacant career executive position shall be according to s.230.25, Stats. limited to no more than the 10 highest ranking candidates on the internal register and no more than 10 highest ranking candidates on the external register.~~

~~(2) Certification from the external register when such a register is established, may occur simultaneously with the certification from the internal register. Certification from the external register may also be provided at any time after candidates from the internal register have been certified, but prior to the time an appointment is made. No candidate from the external register who has earned a score lower than the candidate with the lowest score certified from the internal register shall be certified, except when the latter register contains fewer than 10 candidates.~~

**Section 3.** ER-MRS 30.06(3) is amended to read:

ER-MRS 30.06(3) At the discretion of the appointing authority in the receiving agency, a career executive employe may be required to serve up to a 3 6 month trial period upon movement between agencies. ~~Upon agreement with the sending agency and notification to the employe, the appointing authority in the receiving agency may extend such trial period for 3 additional months.~~ At any time, during the trial period, the receiving agency may terminate the employe. Upon termination, the employe shall be returned to the sending agency and be restored to the employment status that existed at the time of movement to the receiving agency.

**SECTION 4.** ER-MRS 30.08 is repealed and recreated to read:

ER-MRS 30.08 Career executive transfer. For purposes of this chapter, “transfer” has the same meaning as defined in s. ER-MRS 1.02(33). Transfer of career executive employees shall be in accordance with ch. ER-MRS 15, except that where such rules conflict with this chapter, the provisions of this chapter shall apply. Career executive employment reinstatement and restoration shall be in accordance with s. ER-MRS 30.11.

**Section 5.** ER-MRS 30.10(3) is amended to read:

Removal of an employe with permanent status in the career executive program from the career executive program which results in the placement of the employe in a position allocated to a classification assigned to a lower non-career executive pay range ~~17 or below~~ is defined as a demotion, and may be appealed.

**Section 6.** ER-MRS 30.105 is repealed and recreated to read:

**ER-MRS 30.105 Layoff of career executive employees.** For purposes of this chapter, “layoff” has the same meaning as defined in s. ER-MRS 1.02(11). Layoff of career

executive employees shall be in accordance with ch. ER-MRS 22, except that where such rules conflict with this chapter, the provisions of this chapter shall apply. Restoration from layoffs shall be in accordance with s. ER-MRS 22.10.

**Section 7.** ER-MRS 30.99 (1) and (2) are amended to read:

**ER-MRS 30.99 Incumbents of positions placed in the career executive program. (1)**

~~Each incumbent shall be given the option of being whose position is placed in the career executive program without certification, in accordance with s. ER-MRS 30.05, or of remaining in his or her existing position shall immediately come under the noncareer career executive employment provisions. This option shall remain in effect for one year after the incumbent's position is placed in the program. Any subsequent entrance by the employe to the program shall require voluntary movement to a different career executive position under the provisions of s. ER-MRS 30.01(3) and other applicable provisions.~~

**(2)** Incumbents who exercise their option to be whose positions are placed in the career executive program shall earn permanent status immediately upon entering the program. However, incumbents serving a probationary period at the time of entry shall not earn permanent status until they successfully complete the probationary period specified in the appointment letter.

**EFFECTIVE DATE**

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)(intro), Stats.

**FISCAL ESTIMATE**

Flexible certification for career executive vacancies will simplify and speed the hiring process for vacant positions and so save time for state agencies. Revised layoff rules for career executives will result in retaining for the state service its most effective and efficient personnel. Allowing permissible transfers of career executives between agencies will speed staffing vacant positions as well as increase opportunities for career executive incumbents. Increasing the trial or probationary period from three months to six months on a career executive move between agencies will give hiring officials the extra time needed to evaluate the performance of employees in these critically important jobs. Eliminating the career executive opt in/out provision upon placement of a position in the career executive program will eliminate wasted administrative effort which currently adds no value. These changes will have no direct fiscal effect other than administrative efficiency.

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Michael Soehner, Assistant Administrator    Date  
Division of Merit Recruitment and Selection  
Department of Employment Relations



