

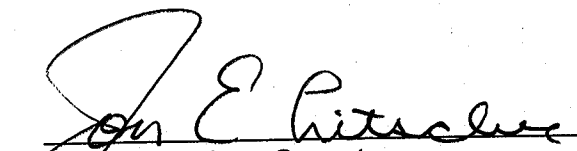
Clearinghouse Rule 96-051

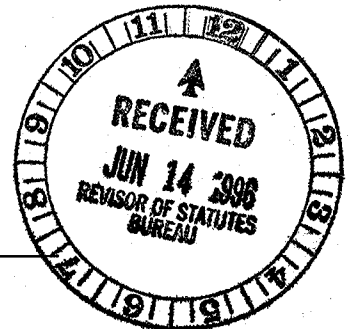
STATE OF WISCONSIN)
) SS
DEPARTMENT OF EMPLOYMENT RELATIONS)

I, Jon E. Litscher, Secretary of the Department of Employment Relations and custodian of the official records, certify that the annexed rules, relating to the rate of pay as a result of voluntary demotions by employes who are notified they may be subject to layoff, were duly approved and adopted by this Department on the 14th day of June, 1996.

I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

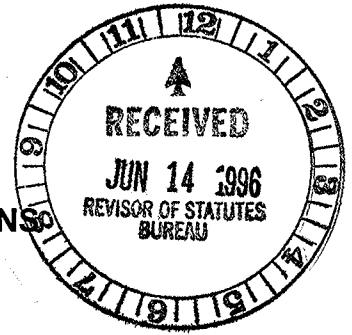
IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of the Department of Employment Relations at 137 E. Wilson Street in the city of Madison, this 14th day of June, 1996.


Jon E. Litscher, Secretary
Department of Employment Relations



8-1-96
96-051

**ORDER OF THE SECRETARY
OF THE DEPARTMENT OF EMPLOYMENT RELATIONS
ADOPTING RULES**



To create s. ER 29.03 (8) (bm), relating to the rate of pay as a result of voluntary demotions by employes who are notified they may be subject to layoff.

ANALYSIS PREPARED BY THE DEPARTMENT OF EMPLOYMENT RELATIONS

The Department's authority to promulgate these rules is found in s. 230.04 (5), Stats. The rules implement the powers and duties of the Secretary under s. 230.04 (1), Stats.

Employes who have permanent status in the state classified service may voluntarily demote to a position in a lower pay range. Under current Department rules, if an employe voluntarily demotes, the employe's rate of pay may be set at any point within the new pay range which is not greater than the last rate received (s. ER 29.03 (8)(b)). The employe's pay is subject to the maximum of the new pay range.

State classified employes may also voluntarily demote in lieu of layoff. If an employe voluntarily demotes as a result of layoff to the highest available vacancy for which the employe is qualified within the agency, the employe must be maintained at his/her current rate of pay, even if the pay rate exceeds the maximum of the new class (s. ER 29.03 (8)(c)).

Under current rules, however, there are no specific provisions governing employes who voluntarily demote after being notified that layoffs may occur in the agency and their position is "at risk" of being affected by the layoffs. The pay of employes who voluntarily demote under these circumstances is subject to the maximum of the new pay range under s. ER 29.03 (8)(b).

This proposed rule allows an employe who is "at risk" of layoff to voluntarily demote and retain his/her current pay rate under certain circumstances -- even if the current pay rate exceeds the maximum of the new pay range. Specifically, the change applies to an employe who has been notified in writing by the appointing authority that layoffs may occur in the agency and the employe's position may be affected by the impending layoffs. If such an employe voluntarily demotes, he/she may be allowed to retain his/her present rate of pay if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employe is demoting. If the present rate of pay is above the maximum for the new class, it may be red circled, subject to s. ER 29.025.

Many state agencies are undergoing reorganizations, either at the directive of the Governor and the State Legislature or on their own initiative. These organizational changes are occurring to promote efficient and effective administration of state agencies, improve delivery of services and improve coordination of similar programs. Numerous permanent positions in the classified civil service are being restructured because of a reduction in force due to a lack of work or funds or owing to material changes in duties or organization. Incumbents of those positions will soon face critical career decisions and alternatives that involve new duties, classifications and/or physical location of their work site.

If the option of maintaining the employee's pay rate is not available to the employee and the agency, employees will be forced to choose between options that may result in a reduction in pay, transfer or demotion to a less desirable location or position, or the employee may eventually be laid off. These consequences may adversely affect employee morale, undermine the efficient use of human resources and reduce the benefits of the agency reorganization. Retention of an employee's current rate of pay can be used by the agency as an incentive for employees to move to positions they might otherwise not choose.

TEXT OF RULE

Section 1. ER 29.03(8) (bm) is created to read:

29.03(8) (bm) Notwithstanding par. (b), an employee who voluntarily demotes within the agency after the employee has been notified in writing by the appointing authority that layoffs may occur in the agency and the employee's position may be affected by the impending layoffs, may be allowed to retain his or her present rate of pay if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting. If the present rate of pay is above the maximum for the new class, it may be red circled, subject to s. ER 29.025.

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.

AGENCY CONTACT

Bob Van Hoesen
Department of Employment Relations
137 East Wilson Street
Madison, WI 53707
608-267-1003