

**POLICY AND PROCEDURE STATEMENT
RELATING TO EXEMPTING POSITIONS FROM CIVIL SERVICE**



**DEPARTMENT OF EMPLOYEE RELATIONS
CITY OF MILWAUKEE**

March 20, 2015

(Approved by the Board of City Service Commissioners on March 24, 2015)



The City Service Commission is committed to merit-based civil service hiring. A merit system provides an equitable, objective process for selection on the basis of demonstrated ability and protection of individual rights through safeguards against arbitrary treatment and political influence.

Wisconsin Statute §63.27 provides for two types of exempt positions: 1) positions that are specifically enumerated under Section §63.27 as exempt; and, 2) positions exempted through the discretionary power granted the Commission.

Under the discretionary power afforded it in Wisconsin Statute §63.27, the City Service Commission has the authority to determine, based on its judgment, those positions which cannot for the time being, be subjected to the rules of the City Service Commission and should therefore be exempted "with advantage to the public service" from their rules. Persons holding exempt appointments are not part of the classified service and are not affected by civil service law and Commission rules while they serve in the exempt position.

The Commission reviews requests to exempt positions on a case-by-case basis. Since the City Service Commission's statutory authority only allows it to exempt positions "for the time being," a position that has been exempted by Commission action returns to the classified service once vacated. Therefore, once an exempt position is vacated, the appointing authority must make a new request to the Commission if it believes that the conditions warranting exemption still exist. The Commission will consider the new request and determine whether the position should continue to be exempt. All exempt positions are reviewed by the Commission on an annual basis.

The Commission believes in filling positions through a merit-based civil service process unless sound rationale exists for exempting them from that process. Requests for exemptions from appointing authorities shall clearly specify and include the following information:

- The reason(s) for the request – In all instances the burden of proof for justifying the exemption shall rest with the appointing authority.
- The procedures which will be used for recruitment and selection if the exemption is granted.
- A current job description for the position.
- A listing of all other exempt positions and corresponding pay ranges within the Department.
- A Departmental organizational chart depicting the level of the position and where it fits in the organizational structure.

Once an exemption is granted by the Commission, the person appointed is not subjected to or "affected as to their election, selection or appointment by rules made by the Commission," thus, an employee in an exempt position is an "at will" employee while serving in the position and does not have a "property right" to the exempt position. A person holding an exempt appointment serves at the pleasure of the appointing authority and cannot transfer or be appointed/promoted to a position in the city service. However, regularly appointed employees may under City Service Rule X be granted a leave of absence to accept a position of honor or trust in the service of the City of Milwaukee, the County of Milwaukee, the State of Wisconsin or the United States.

The conditions under which the Commission considers exempting positions and examples of positions that have been exempted under each category are summarized below.

- The position requires confidentiality and sensitivity and commitment to the strategic position of an elected or public official;
Example: Special Assistant to the City Attorney, Long Range Planning Manager
- The position is significantly involved in providing policy advice to a public official;
Example: Legislative Fiscal Manager Sr
- The position requires confidentiality related to the need to represent and act as a spokesperson for a public official;
Example: Public Information Officers in Health, Library, and DPW.
- The position reports directly to an elected official and personal loyalty or political compatibility are necessary;
Example: Executive Assistant to the Comptroller
- The position necessitates an immediate appointment to address an urgent community need which would not be feasible under Civil Service appointment procedures;
Example: In-Rem Property Manager (during the foreclosure crisis)
- The position or its funding is of a limited or uncertain duration;
Example: Library Construction Project Manager
- The position requires a mechanism to commence or terminate employment based on funding guidelines;
Example: Temporary Office Assistants in the Election Commission

These examples are not meant to be all inclusive. They are provided as a general frame of reference for appointing authorities to consider when deciding to make a request for exemption. Considerations for the exemption of a position may go beyond the scope of what has been identified above. The City Service Commission reserves the right to determine if the rationale for a request is consistent with the applicable statutory provisions.