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 Anonymous Request for Investigation *
 Case No. 76-192-I *
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OFFICIAL OPINION AND ORDER

Before: DEWITT, Chairperson, HESSERT, MORGAN, and WARREN, Board Members.

This is an anonymous request for investigation pursuant to Section 16.05(4), stats. The complainant alleges that he applied and was certified for a number of vacancies in the classified service. In several cases representatives of the appointing authorities told him that they could not appoint him because they had been informed either by the bureau of personnel or departmental personnel offices that it would be illegal to appoint him because of his age (65). He has presented a number of arguments against this alleged practice and against mandatory retirement which have been reviewed by the board.

The bureau of personnel was requested to and did respond to the request for investigation. It replied that Section 41.02(23), stats., defines the normal retirement as age 65 for classified positions other than protective occupations, where it is 55, and that Section 41.11(1), stats., requires retirement at the end of the calendar quarter on which an employe reaches the normal retirement date, unless employment is continued by the appointing authority. The bureau's practice is to notify job applicants who have attained normal retirement age that employment is possible only if an exception to the normal retirement date is made by the appointing authority. The applicant is permitted to participate in the examination if he or she wishes. If such an applicant is certified, he or she is removed from the certification if the appointing authority chooses not to make an exception to the normal retirement date.

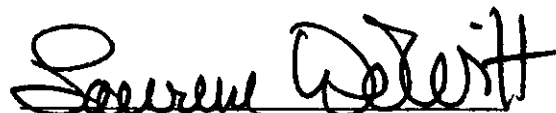
We believe that the bureau policy as set forth above is consistent with the provisions of the statutes and the apparent legislative intent. We further believe that the requirement of retirement at age 65 unless the employee makes

an exception raises important policy questions, but these questions must be addressed in the first instance by the legislature. Therefore, while we recommend that all agencies review their appointment practices to ensure that they are not making a blanket rejection of certified applicants who are at the normal retirement age, we decline to conduct any further investigation into this matter. We will forward a copy of this decision to the Employment Relations Study Commission (Stevens/Offner) and the appropriate committees of the legislature.

ORDER

It is ordered that this investigation request be closed.

Dated April 25, 1977. STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson