

Civil Service

CHAPTER 43

STATE CIVIL SERVICE

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43.0001 CHANGE OF NAME.

The name of the department of personnel is changed to the department of employee relations. The title of the commissioner of personnel is changed to the commissioner of employee relations. Subject to applicable laws, the department of employee relations, with its commissioner and officers, shall continue to exercise all the powers and duties vested in or imposed upon the department and commissioner of personnel immediately prior to April 25, 1980.

History: 1980 c 617 s 2

43.001 DEPARTMENT OF EMPLOYEE RELATIONS; CREATION.

Subdivision 1. The department of employee relations is hereby created under the control and supervision of a commissioner of employee relations, which office is hereby established.

Subd. 2. The commissioner of employee relations is appointed by the governor under the provisions of section 15.06. The commissioner shall be knowl-

edgeable in executive personnel management and shall have background in labor relations.

Subd. 3. The commissioner may appoint a confidential secretary, who shall serve at the pleasure of the commissioner in the unclassified service.

Subd. 4. Subject to applicable laws, the commissioner shall organize the department and employ other officers, employees, and agents necessary to discharge the functions of the department, define the duties of these officers, employees, and agents and delegate to them any powers, duties, and responsibilities subject to the commissioner's control and under conditions as the commissioner may prescribe. Personnel employed pursuant to this subdivision are in the classified service of the state civil service.

Subd. 5. The department of employee relations shall be organized into two divisions to be designated the division of personnel and the division of labor relations. Each division shall be under the immediate charge of a deputy commissioner.

Subd. 6. The deputy commissioners for the divisions of personnel and labor relations shall be appointed by and serve at the pleasure of the commissioner, and shall be in the unclassified service of the state. The deputy commissioner for the division of labor relations shall have extensive background in labor relations and shall have experience in dealing with contracts similar in complexity to those negotiated between the state and exclusive representatives of state employees.

Subd. 7. Each division of the department of employee relations shall be responsible for administering the duties and functions that are assigned to it by law and by the commissioner of employee relations. Insofar as the duties of the divisions are not mandated by law, the commissioner may establish and revise the assignments of either division.

Subd. 8. The division of labor relations shall perform the duties assigned to the commissioner of employee relations by sections 3.855, 43.05, subdivision 3 and chapter 179.

The deputy commissioner for the division of labor relations shall be the chief state labor negotiator for purposes of negotiating and administering agreements with exclusive representatives of state employees.

Subd. 9. The division of personnel shall perform the duties assigned to the commissioner by section 43.05, subdivision 2.

History: 1973 c 507 s 1; 1977 c 305 s 13,14; 1980 c 617 s 3

43.002 TRANSFER OF DUTIES FROM CIVIL SERVICE DEPARTMENT.

Except as otherwise provided for in Laws 1973, Chapter 507, all the powers, duties, and responsibilities now vested in and imposed upon the director of civil service, and the civil service board are hereby transferred to, vested in, and imposed upon the department of employee relations. The office of director of civil service, the civil service board, as heretofore constituted is hereby abolished.

History: 1973 c 507 s 2; 1980 c 617 s 47

43.003 [Repealed, 1980 c 617 s 45]

43.004 SOCIAL SECURITY COVERAGE, TRANSFER OF POWERS AND DUTIES.

All the powers, duties and responsibilities under Minnesota Statutes 1971, Chapter 355, relating to social security coverage is hereby transferred to and vested in the commissioner of employee relations.

History: 1973 c 507 s 41; 1980 c 617 s 47

43.005 EFFECT OF TRANSFER OF FUNCTIONS.

Subdivision 1. With reference to the powers, duties, and responsibilities which by Laws 1973, Chapter 507 have been transferred to the department of employee relations, the department of employee relations is deemed to be the successor of the director of state civil service, the civil service board, the commissioner of administration and the matters within the jurisdiction of such former offices shall not be deemed to be a new authority.

With reference to the powers, duties and responsibilities which by Laws 1973, Chapter 507 have been transferred to the personnel board, the personnel board is deemed to be the successor of the state civil service board and the compensation review board and the matters within the jurisdiction of such former boards shall not be deemed to be a new authority.

With reference to the powers, duties and responsibilities which by Laws 1973, Chapter 507 have been transferred to the department of employee relations from the compensation review board, the department of employee relations is deemed to be the successor of the compensation review board and the matters within the jurisdiction of such former board shall not be deemed to be a new authority.

Subd. 2. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced prior to the passage of Laws 1973, Chapter 507 with reference to powers, duties and responsibilities of the director of civil service, the civil service board, the compensation review board, the commissioner of administration, are hereby assigned to such agencies to which the transfer has been made, and such pending matters may be continued and completed in the same manner and under the same terms and conditions and with the same effect as if such matters were undertaken, commenced and completed prior to the date of such transfer.

Subd. 3. With reference to the powers, duties, and responsibilities transferred by Laws 1973, Chapter 507 from one state agency, department or officer to another, the respective state department, state agency, or state officer shall transfer and deliver to the department of employee relations all contracts, books, maps, papers, notes, records, and other property of every description within its jurisdiction or control. The transferee agency, department, or officer is directed to take possession of such matters which have been transferred.

Subd. 4. Whenever in any other general law, heretofore or hereafter adopted, or any document, record, or proceeding authorized by the same, any word or phrase is used in reference to or descriptive of any power, duty, or responsibility which by Laws 1973, Chapter 507 is transferred from one officer, department, or agency to another officer, department or agency, such word, phrase, or reference shall hereafter, unless the context or provision of Laws 1973, Chapter 507 otherwise requires, be deemed to describe the transferee officer, department or agency.

Subd. 5. All unexpended funds appropriated to an officer, department or agency for the purposes of any of the powers, duties, and responsibilities which by Laws 1973, Chapter 507 are transferred to another officer, department or agency are hereby transferred and reappropriated to such transferee officer, department or agency. Where unexpended funds appropriated to an officer, department or agency include funds for powers, duties, and responsibilities which are not transferred, the governor shall allocate the appropriation between the transferor and the transferee officer, agent or department, and the money so allocated is hereby reappropriated to the transferee, officer, department or agency.

Subd. 6. Except as otherwise provided in Laws 1973, Chapter 507, all persons in the classified service of the state and employed by an officer, department or agency for the purposes of any of the powers, duties or responsibilities which are transferred by Laws 1973, Chapter 507 to another officer, department or agency are hereby transferred to the transferee officer, department or agency. The position of a person in the unclassified service of the state and employed by an officer, department or agency for the purposes of any of the powers, duties, or responsibilities which are transferred by Laws 1973, Chapter 507 to another officer, department or agency are hereby abolished. Notwithstanding the provisions of Minnesota Statutes 1971, Section 43.20, any person in the unclassified service whose position is abolished hereunder may be employed as a provisional employee not to exceed 12 months following the date of abolishment of his position.

History: 1973 c 507 s 43; 1980 c 617 s 47

43.006 OFFICE FACILITIES.

The commissioner of administration shall supply the commissioner of employee relations with such space as may be necessary to physically effect a consolidation of functions and activities within his jurisdiction.

History: 1973 c 507 s 46; 1980 c 617 s 47

43.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings ascribed to them.

Subd. 2. **Eligible.** "Eligible" means a person who is on an employment list and qualified for appointment, promotion, or reinstatement under this chapter.

Subd. 3. [Repealed, 1974 c 364 s 23]

Subd. 4. [Repealed, 1974 c 364 s 23]

Subd. 5. [Repealed, 1973 c 507 s 47]

Subd. 6. **Department.** "Department" means the department of employee relations.

Subd. 7. **Board.** "Board" means the personnel board.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of employee relations.

Subd. 9. **Rate of pay.** Unless otherwise prescribed by personnel rule, "rate of pay" means rate of pay for a regular work hour, "monthly rate of pay" means compensation for 174 regular hours of work and "annual rate of pay" means compensation for 2,088 regular hours of work.

Subd. 10. **Position.** "Position" means a group of current duties and responsibilities assigned or delegated by competent authority, requiring the full time or part time employment of one person.

Subd. 11. **Appointing authority.** "Appointing authority" means a person or group of persons empowered by the constitution, by statute, or executive order to employ or to make appointments to positions in the state civil service.

Subd. 12. **Class.** "Class" means one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with clarity to designate each position allocated to the class, that the same general qualifications are needed for performance of the duties of the class, that the same tests of fitness may be used to recruit employees, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

Subd. 13. **Allocation.** "Allocation" means the assignment of an individual position to an appropriate class on the basis of the kind, difficulty, or responsibility of the work performed in the position.

Subd. 14. **Reclassification.** "Reclassification" means a reallocation, or change in allocation, of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level. A reclassification shall be considered a "reallocation" when the reclassification is the result of significant changes over a period of time in the kind, difficulty, or responsibility of the work performed in such position. A reclassification shall be considered a "change in allocation" when the reclassification is the result of changes in the organizational structure of an agency or abrupt changes in the duties and responsibilities of the position.

Subd. 15. **Total compensation.** "Total compensation" means salary, paid time off, group insurance benefits, the retirement plan, and other direct and indirect items of compensation.

Subd. 16. **Competitive.** "Competitive" means a level which is generally equal to the total compensation paid for similar types of work.

Subd. 17. **Legislative branch.** For purposes of chapters 15A and 43, "legislative branch" means all legislators and all employees of the legislature including part time or full time employees and temporary or permanent employees of legislative committees or commissions.

Subd. 18. **Judicial branch.** For the purposes of chapters 15A and 43, "judicial branch" means all justices of the supreme court, all employees of the supreme court, including commissions, boards and committees established by the supreme court, the board of law examiners, the law library, the office of the public defender, and all judges of district courts and such other agencies as may be placed in the judicial branch by law.

Subd. 19. **Executive branch.** For purposes of chapters 15A and 43, "executive branch" means heads of all departments of government elective or appointive, established by statute or constitution and all employees of such department heads which have, within their particular field of responsibility statewide jurisdiction, as opposed to jurisdiction in specifically defined geographical areas, such as regions, counties, cities, towns, municipalities, or school districts; and are not defined as part of the legislative or judicial branches of government. The executive branch shall include the governor and his staff. Not included into the executive branch shall be the university of Minnesota, the public employees retirement association, the Minnesota state retirement system, the teachers retirement association, the Minnesota historical society, and all of their employees, and any other entity which is incorporated, though it may receive state funds.

Subd. 20. **Civil service.** "Civil service" of the state means a system consisting of all employees in the legislative, the judicial, and the executive branches of state government. The state civil service shall be divided into the classified and the unclassified civil service as provided elsewhere in this chapter.

Subd. 21. **Department, agency.** For purposes of chapter 15A and of this chapter, the terms "department" and "agency" may be used interchangeably within the executive branch.

Subd. 22. **Officer, employee.** For purposes of chapter 15A and of this chapter, the terms "officer" and "employee" may be used interchangeably within the executive branch.

Subd. 23. **Permanent.** "Permanent" means the employment status of an employee in the classified civil service who has been appointed to a position after successfully completing an initial probationary period as set forth in section 43.21.

History: 1939 c 441 s 34; 1945 c 598 s 1; 1947 c 604 s 1; 1949 c 646 s 1; 1973 c 507 s 3-8; 1973 c 653 s 8-10; 1974 c 511 s 5; 1979 c 332 art 1 s 11-14; 1980 c 617 s 4, 47 (254-82)

43.02 [Repealed, 1974 c 511 s 16]

43.03 Subdivision 1. MS 1978 [Repealed, 1979 c 332 art 1 s 114; 1980 c 614 s 191]

Subd. 2. MS 1978 [Repealed, 1979 c 332 art 1 s 114; 1980 c 614 s 191]

Subd. 2a. MS 1978 [Repealed, 1979 c 332 art 1 s 114; 1980 c 614 s 191]

Subd. 3. MS 1974 [Repealed, 1976 c 134 s 79; 1979 c 332 art 1 s 114]

43.04 [Repealed, 1955 c 596 s 2]

43.041 [Repealed, 1973 c 507 s 47]

43.05 DUTIES AND POWERS OF COMMISSIONER.

Subdivision 1. **General duties.** The commissioner of employee relations shall be the chief personnel manager of the state and shall have the responsibility and power to ascertain equitable treatment of all state employees in both the classified and unclassified civil service in the executive branch.

Subd. 2. **Specified duties.** The commissioner shall:

(1) Promulgate rules for the purpose of carrying out the provisions of this chapter; these rules shall provide, among other things, for current records of efficiency, and standards of performance, for all employees subject to the provisions of this chapter; the manner of completing appointments and promotions; rejection of eligible candidates; examinations; retention of examination records under the provisions of section 138.163; creation of eligible lists, with successful candidates ranked according to their ratings in the examinations; transfers and reinstatements; public notice of examinations; compulsory retirement at fixed ages; and other conditions of employment;

(2) Operate an information system from which data can be retrieved concerning employees in agencies under his jurisdiction showing their employment histories including the date of appointment, demotion, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, and separations from the service; and the commissioner shall have access to all public and private personnel data kept by an appointing authority, the examination of which will aid in the discharge of his duties;

(3) Prepare, in accordance with the provisions of this chapter and the rules adopted hereunder, examinations, eligible lists, and ratings of candidates for appointment;

(4) Make certifications for appointment within the classified service, in accordance with the provisions of this chapter;

(5) Make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the personnel rules prescribed hereunder;

(6) Discharge such duties as are imposed upon him by this chapter;

(7) Establish, publish and continually review logical career paths in the classified civil service;

(8) Consider all requests for other than state appropriated funds from any state department or agency for personnel purposes all of which shall be submitted to him for comment before any such request is made of a federal, local, or private agency; and

(9) Prepare rules regulating the temporary designation of positions in the unclassified civil service;

(10) Review, establish or change titles for the positions in the unclassified civil service in the executive branch of state government except those established by law or by the constitution, to make titles descriptive of positions and consistent throughout the state service; and

(11) In conformance with the rule making provisions of chapter 15, promulgate a code of ethics establishing standards of conduct to be observed by state employees in the performance of their official duties.

Subd. 3. **Duties through division of labor relations.** The commissioner, through the division of labor relations, shall:

(a) Represent the state at hearings conducted by the director of the bureau of mediation services and the public employment relations board relating to state employees;

(b) Represent the state in all collective bargaining between the state and exclusive representatives, and represent the state in mediation and arbitration of collective bargaining disputes;

(c) Report to the legislative commission on employee relations pursuant to section 3.855;

(d) Be responsible for state management interpretation of all collective bargaining agreements between the state and exclusive representatives and provide state management personnel with training in the interpretation and application of these collective bargaining agreements;

(e) Oversee the administration of all written grievances arising under collective bargaining agreements between the state and an exclusive representative. The commissioner shall establish procedures which appointing authorities shall follow to enable the commissioner to monitor the grievance procedure at all steps;

(f) Have final authority to decide if a grievance shall be submitted to arbitration or if it shall be settled without arbitration;

(g) Represent the state at all grievance arbitrations;

(h) Collect and analyze all information necessary to carry out the responsibilities of this subdivision.

History: 1939 c 441 s 5; 1955 c 774 s 1; 1955 c 847 s 4; 1957 c 870 s 1; 1973 c 507 s 17; 1974 c 364 s 2; 1975 c 381 s 3; 1975 c 431 s 1; 1979 c 332 art 1 s 15; 1980 c 614 s 61; 1980 c 617 s 5,6,47 (254-53)

43.051 AGE FOR RETIREMENT.

Subdivision 1. An employee of the state of Minnesota in the classified service, and an employee in the unclassified service who is subject to the provisions of the Minnesota state retirement system must retire from employment by the state upon reaching the age of 70 except as provided in other law. Nothing in this subdivision shall apply to persons in the legislative branch or judicial branch.

Subd. 2. Notwithstanding any provision to the contrary, a physician in the classified or unclassified state service may upon reaching the maximum retirement age specified in subdivision 1, continue to be employed subject to annual certification by the appointing authority of the department in which the physician is employed to the commissioner that the employee is physically and mentally competent to fulfill the duties of his position.

Subd. 2a. MS 73 Supp [Repealed, 1974 c 364 s 23]

Subd. 3. Notwithstanding the provisions of subdivision 1, any employee of the state of Minnesota in a covered classification as defined in section 352.91, who is a member of the special retirement program for correctional personnel established pursuant to sections 352.90 to 352.95, may elect or be required to

retire from employment in the covered correctional position upon reaching the age of 55 years.

A correctional employee occupying a position specified as covered by the provisions of section 352.91, desiring employment beyond the conditional mandatory retirement age shall, at least 30 days prior to the date of reaching the conditional mandatory retirement age of 55 years, and annually thereafter, request in writing to the person's appointing authority that he be authorized to continue in employment in the covered position. Upon receiving the request, the appointing authority shall have a medical examination made of the employee. If the results of the medical examination establish the mental and physical ability of the employee to continue the duties of his employment, he shall be continued in his employment for the following year. If the determination of the appointing authority based upon the results of the physical examination is adverse, the disposition of the matter shall be decided by the commissioner of corrections or of public welfare, if the appointing authority is the Minnesota security hospital. Based on the information provided, the decision of the applicable commissioner shall be made in writing and shall be final.

Subd. 4. (1) Notwithstanding any provisions of chapters 352A and 352B or any other law to the contrary, conservation officers and crime bureau officers who are first employed on or after July 1, 1973 and are members of the highway patrolmen's retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for such fractional portion of one year as will enable the employee to complete his next full year of allowable service.

(2) Notwithstanding any provisions of chapters 352A and 352B or any other law to the contrary, conservation officers and crime bureau officers who are first employed and are members of the highway patrolmen's retirement association by reason of their employment before July 1, 1973, shall be governed by the same mandatory retirement regulations applied to other state employees who are covered by the Minnesota state retirement system.

History: 1967 c 193 s 6; 1967 c 741 s 27; 1973 c 653 s 12; 1973 c 765 s 23; 1975 c 230 s 1; 1975 c 368 s 12; 1976 c 329 s 1; 1977 c 347 s 12,13; 1978 c 649 s 1; 1979 c 40 s 1; 1979 c 296 s 1; 1980 c 600 s 1

43.055 EXTENT OF AUTHORITY.

Whenever any power or authority is given to the commissioner by any provision of this chapter, such power or authority shall extend to all agencies in the executive branch, but shall not extend to any employees in the judicial branch or legislative branch. The classified employees in the office of the legislative auditor, the Minnesota state retirement system, and teachers retirement association, however, shall be subject to the powers or authority of the commissioner of employee relations.

History: 1974 c 511 s 7; 1979 c 332 art 1 s 16; 1980 c 617 s 47

43.056 FILES; SECURITY.

Written test questions and other information relating to the conduct of examinations shall be kept confidential to the extent necessary to ensure that all applicants for employment have a fair and equal opportunity to demonstrate their abilities to perform the duties of the position for which they are applying. An applicant appealing or contemplating an appeal of his examination score may review written test questions or other information relating to the examination unless the questions are to be used in a future examination. In the latter case, the applicant may designate a person skilled in the evaluation of employment tests to review the materials and evaluate them for his use in deciding to pursue or withdraw an appeal.

History: 1975 c 381 s 4

43.06 [Repealed, 1979 c 332 art 1 s 114; 1980 c 614 s 191]

43.062 SALARY SETTING AUTHORITY.

Subdivision 1. **Salary listing.** The governor shall, on or before January 15 of each odd numbered year, submit to the legislature a listing of salaries for the positions listed in sections 15A.081 and 15A.083. The governor may also recommend adding or deleting of positions from this list.

Subd. 2. **Committee to consider advice.** Before submitting the salary listing prescribed in subdivision 1, the governor shall consult with the commissioner of administration, the commissioner of finance, and the commissioner of employee relations concerning the salary listing and shall give due consideration to the advice of these officers. Before submitting a salary listing prescribed in subdivision 1 for an employee in the office of a constitutional officer, the governor shall consult with the constitutional officer concerning the salary listing and shall give due consideration to the advice of the officer.

Subd. 3. **Base salaries.** Except for positions for which salary ranges have been established, the salary listing shall contain a specific salary for each position defined in subdivision 1.

The governor shall determine only a fixed salary for the positions of the constitutional officers, executive director of the board of investment, the judge of the workers' compensation court of appeals and the commissioner of public service.

Subd. 4. **Office of attorney general.** Salaries within the ranges for professional positions within the office of the attorney general shall be established by the attorney general.

History: 1974 c 511 s 1; 1975 c 359 s 23; 1976 c 134 s 78; 1979 c 192 s 2; 1980 c 607 art 14 s 45 subd 1; 1980 c 614 s 62-64; 1980 c 617 s 47

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.063 SALARIES FOR MEMBERS OF MINNESOTA NATIONAL GUARD.

Members of the Minnesota national guard shall receive the pay and allowances prescribed by the armed forces of the United States for similar rank and time in service.

History: 1974 c 511 s 8

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.064 OTHER SALARIES SET BY COMMISSIONER OF EMPLOYEE RELATIONS.

Notwithstanding any other law to the contrary, compensation for all unclassified positions in the executive branch not enumerated in the listing described in section 15A.081, shall be established by the commissioner except for the following: (1) positions listed in section 299D.03; (2) employees in the office of the governor whose salaries shall be determined by the governor; (3) employees in the office of the attorney general; (4) employees of the state board of investment; (5) positions in the state university system, the community college system; and in the higher education coordinating board whose primary duties consist of instructing and counseling students, directing academic programs of schools, divisions or departments of colleges and community colleges, or conducting research on academic subjects, or conducting academic support programs; and the positions of state university and community college presidents. Individual salaries for positions enumerated in clauses (3), (4) and (5) and for classified hearing examiners in the office of administrative hearings shall be

determined by the attorney general, the state board of investment, the state university board, the state board for community colleges, the higher education coordinating board, and the chief hearing examiner, respectively, within the limits of salary plans which shall have been approved by the commissioner before becoming effective.

No provision of any subsequent law relating to salaries of state employees shall be construed as inconsistent with this section unless it is expressly provided in the subsequent act that the provisions of this section shall not be applicable or shall be superseded, amended, or repealed.

History: 1973 c 349 s 2; 1974 c 511 s 2; 1975 c 156 s 3; 1975 c 271 s 6; 1975 c 321 s 2; 1978 c 793 s 53; 1979 c 332 art 1 s 17,114; 1980 c 607 art 14 s 26; 1980 c 615 s 60; 1980 c 617 s 43

43.065 SALARY REVIEW.

Subdivision 1. **Salaries to be equitable.** When determining or recommending salaries for any position, the governor and the commissioner of employee relations shall assure that:

(1) Salaries in the classified and unclassified service bear equitable relationship to one another;

(2) Salaries among the various positions listed in section 15A.081, bear equitable relationships to one another; and

(3) Salaries for state positions bear equitable relationships to salaries for similar positions outside state service.

Salaries bear equitable relationships to one another within the meaning of this section if salaries for positions which require comparable knowledge, abilities, duties, responsibilities and accountabilities are comparable and if salaries for positions which require differing knowledge, abilities, duties, responsibilities and accountabilities are directly proportional to the knowledge, abilities, duties, and responsibilities required.

Subd. 2. **Method of review.** In recommending the salary listing described in section 15A.081, the governor shall consider only those criteria established by subdivision 1 and shall not take into account personal performance of individual incumbents. The governor shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities and accountabilities and in determining salary listings rate each position according to this system.

Subd. 3. **Information, consultants.** Each department shall furnish the commissioner with any information which the commissioner may request to aid in the performance of its duties. Subject to appropriations, the commissioner may engage expert consultants.

History: 1974 c 511 s 3; 1980 c 614 s 65; 1980 c 617 s 47

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.066 [Repealed, 1977 c 35 s 21]

43.067 SALARY LIMITS.

Subdivision 1. **Agency heads and deputies.** The base salary of the head of any state department or other agency in the executive branch shall serve as the upper limit of compensation in the agency. The base salary of the commissioner of labor and industry is the upper limit of compensation of employees in the bureau of mediation services.

Subd. 2. **Discretionary exemptions.** The commissioner may grant exemptions from the provisions of subdivision 1 in the case of individual persons. A salary increase authorized by other law by reason of seniority or cost of living adjustments shall not be sufficient reason to grant an exemption. The commis-

sioner may grant an exemption upon application of the appointing authority, but only if the commissioner determines that the position requires special expertise necessitating a higher salary in order to attract or retain qualified persons. In no event may a salary exempted pursuant to this subdivision exceed 120 percent of the base salary of the position in respect to which the exemption was requested.

Subd. 3. Medical doctors exempted. Salaries of medical doctors who are occupying positions which the commissioner of employee relations determines require an M. D. degree and who are paid under the provisions of section 43.126, or who are employed by political subdivisions in positions that the governing body of the political subdivision has determined require an M.D. degree, shall be excluded from the limitation provided in this section.

Subd. 4. [Repealed, 1980 c 614 s 191]

History: 1974 c 511 s 4; 1977 c 35 s 3; 1977 c 452 s 2,3; 1978 c 793 s 54; 1979 c 192 s 3; 1979 c 333 s 74; 1980 c 614 s 66; 1980 c 617 s 7,47

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.068 GOVERNOR MAY FIX CERTAIN SALARIES.

The initial salary of a department head and any deputy of a department head occupying a position in the unclassified service hereafter established whose salary is not specifically prescribed by law shall be fixed by the governor, after consultation with the commissioner, whose recommendation shall be advisory only, in an amount comparable to the salary of a department head or a deputy of a department head having similar duties and responsibilities.

History: 1957 c 936 s 11; Ex1971 c 32 s 16; 1973 c 507 s 16; 1980 c 614 s 67

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.069 [Repealed, 1979 c 192 s 4; 1979 c 332 art 1 s 114]

NOTE: The repeal of this section by Laws 1979, Chapter 332, Article 1, Section 114 is effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.07 TESTIMONIAL POWERS.

Subdivision 1. Subpoenas, issuance. The personnel board and hearing officers, may issue subpoenas to compel the attendance, at such place as may be designated in this state, of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this chapter; or may take depositions of witnesses in the manner provided by section 600.09, and the rules of civil procedure. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board. The board, or any member thereof, and hearing officers may administer oaths and take testimony. The board and hearing officers may examine such public records as they require in relation to any matter which they have authority to investigate. All officers and other persons shall attend and testify when required to do so by the board.

Subd. 2. Refusal to testify, contempt of court. In case of the refusal by any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county, on application of any one of the members of the board may issue an order requiring the person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

Subd. 3. Witness fees and mileage. Each person not in the classified or unclassified services who appears before the board by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Witnesses subpoenaed at the request of parties

other than the board shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of these witnesses was relevant and material to the matter investigated.

Subd. 4. **Rules of evidence not technical.** The board in conducting hearings and investigations in accordance with the provisions of this chapter, shall not be bound by the technical rules of evidence.

History: 1939 c 441 s 7; 1973 c 507 s 15; 1976 c 239 s 15 (254-55)

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.08 [Repealed, 1973 c 507 s 47]

43.09 UNCLASSIFIED SERVICE; CLASSIFIED SERVICE.

Subdivision 1. **Divisions.** The civil service of the state of Minnesota is hereby divided into the unclassified and the classified services.

Subd. 2. **Unclassified service.** The unclassified civil service comprises positions held by state employees who are:

- (1) Chosen by election or appointed to fill an elective office;
- (2) Heads of department required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, divisions and institutions specifically established by law, except that with respect to state institutions, the provisions of section 246.02 are hereby continued in effect; provided, this clause shall not apply to heads of divisions now existing in the department of labor and industry;
- (3) Except as herein otherwise enlarged, one private secretary to each of the elective officers of this state, and in addition thereto, one deputy, clerk, or employee to the secretary of state, state auditor, and state treasurer;
- (4) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (5) Employees in the offices of the governor and of the lieutenant governor, and one confidential employee for the governor in the office of the adjutant general;
- (6) Officers and employees of the senate and house of representatives of the legislature including temporary or permanent employees of legislative committees or commissions. Employees of the legislative audit commission, except for the legislative auditor, his deputy, and his confidential secretary, however, shall be employees in the classified civil service of the state;
- (7) Teachers, research assistants, student employees on less than half-time pay basis or eligible under terms of the federal economic opportunity act work study program, presidents, deans, and administrative officers in the state universities and community colleges; but this clause shall not be construed to include the custodial, clerical, or maintenance employees, or any administrative officers, or clerical workers performing duties in connection with the business administration of these institutions;
- (8) Officers and enlisted persons in the national guard;
- (9) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with his authorization;
- (10) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;
- (11) Members of the state highway patrol; provided that selection and appointment of highway patrol troopers shall be made in accordance with applicable laws governing the classified state civil service;

- (12) Seasonal help employed by the department of revenue;
- (13) Employees of the department of administration permanently assigned to the ceremonial house;
- (14) Examination monitors and intermittent training instructors employed by the department of employee relations;
- (15) Student workers;
- (16) Unclassified pursuant to other statutory authority.

Subd. 2a. **Additional unclassified positions.** Notwithstanding any other law to the contrary, the commissioner, upon the request of the governor, is hereby authorized to establish permanent unclassified positions, or to unclassify previously classified positions, provided that:

(1) Positions so established involve only deputy or assistant heads of departments or agencies, or director level positions which are not specifically established by law, and who are appointed by and report directly to a head of a department or agency who is required by law to be appointed by the governor, or by a gubernatorially appointed board; as well as one position for a personal secretary of any head of a department or agency listed in clause (4).

(2) Classified incumbents of such positions, if any, are not removed from that position for a period of one year except under applicable provisions of rules and laws governing classified state employees. An incumbent of a position that is declassified pursuant to this subdivision, if he so requests within 120 days after being removed from that position, shall be appointed to a classified position comparable to the position that was declassified, or if such a position is unavailable, to a position comparable to that which he held immediately prior to being appointed to the position that was declassified. If a position is declassified and the incumbent at the time the position was declassified had no classified status immediately prior to the appointment to the position that was declassified, he shall, if he so requests within 120 days after being removed from that position, be appointed to a comparable or lower classified position within two salary ranges of the position that was declassified.

(3) If an employee in the classified civil service accepts a newly created unclassified position, he shall retain an inactive classified civil service status and, upon his request, shall be reappointed to a classified position comparable to that which he held immediately prior to being appointed to the unclassified position.

(4) Positions so established are limited in number to six in the departments of administration, corrections, economic security, finance, transportation, natural resources, public safety, public welfare, and revenue; to five in the departments of commerce, education, health, labor and industry, employee relations and the housing finance agency; to four in the departments of agriculture, and economic development; to three in the department of public service, the planning agency, and the pollution control agency; and to two in the departments of human rights, the crime control planning board and veterans affairs. Departments or agencies not enumerated in this clause shall not be authorized to establish additional unclassified positions under the provisions of this subdivision.

(5) Funds are available.

Subd. 3. **Labor service.** All positions involving unskilled labor shall constitute a labor service. The commissioner shall designate the class or classes of positions which shall comprise the labor service and create rules for that service designed to expedite and make more economical the personnel processes in such service. Any appointment to the labor service is not subject to the appointment provisions of subdivision 4 and may be made by the appointing authority without other approval, providing payroll notice of such employment is regularly made to the department of employee relations. Employees in the labor service

who are employed for a total of six months within a 12 month period shall receive the same civil service status given by this chapter to permanent classified employees of the state and shall be known as tenured laborers.

Subd. 4. Classified service. The classified service shall include the labor service and consist of all positions now existing or hereafter created and not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examination which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, reduced, or discharged as an officer, clerk, employee, or laborer in the classified service in any manner or by any means other than those prescribed in this chapter and the rules adopted in accordance therewith.

Subd. 5. Employees may be appointed from registers of eligibles. Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of this chapter because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate registers of eligibles maintained by the department of employee relations.

Subd. 6. Act not applicable to regents of University of Minnesota. The state personnel act shall not be deemed to have been heretofore or hereafter applied to the Regents of the University of Minnesota, nor to persons, institutions, or employees under their control.

Subd. 7. [Repealed, 1977 c 452 s 36]

History: 1939 c 441 s 9; 1941 c 533 s 1; 1943 c 543 s 1; 1943 c 605 s 1; 1945 c 586; 1947 c 482 s 1; 1953 c 408 s 1; 1955 c 774 s 2; 1961 c 113 s 1; 1961 c 351 s 1,2; 1961 c 560 s 4; 1963 c 436 s 1; 1965 c 491 s 1; 1965 c 800 s 1; Ex1967 c 1 s 6; 1971 c 25 s 67; 1973 c 254 s 3; 1973 c 259 s 1; 1973 c 507 s 18; 1973 c 582 s 3; 1974 c 161 s 3; 1974 c 364 s 3; 1974 c 483 s 1; 1974 c 511 s 9; 1975 c 321 s 2; 1975 c 381 s 5-7; 1976 c 2 s 32; 1976 c 166 s 9; 1976 c 183 s 1; 1977 c 430 s 8; 1977 c 452 s 6; 1979 c 332 art 1 s 18,19; 1980 c 614 s 68; 1980 c 617 s 47 (254-57)

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.10 Subdivision 1. [Repealed, 1973 c 507 s 47]

Subd. 2. [Repealed, 1973 c 507 s 47]

Subd. 3. [Repealed, 1973 c 507 s 47]

Subd. 4. [Repealed, 1973 c 507 s 47]

Subd. 5. [Repealed, 1973 c 507 s 47]

Subd. 6. [Repealed, 1973 c 507 s 47]

Subd. 7. [Repealed, 1957 c 141 s 1]

43.11 [Repealed, 1951 c 371 s 1]

43.111 POLICY.

It is the public policy of the state of Minnesota that an efficient and well trained work force be maintained to carry out the work ordained by the legislature. It is further directed that modern methods of selection, training and salary administration be established and maintained. The standards of selection shall be based on merit and provide for the proper level of preparation and experience. Recognizing the cost of excessive employee turnover, it is directed that priority be given to the maintenance of a steady work force. To this end, training, by way of in-service programs and stipend allowances shall be encouraged. It is also established as the policy of the state of Minnesota that employees be

paid a total compensation which is competitive with that paid for like positions in other private and public employment. Proper attention shall be given to equitable internal compensation relationships between related job classes and among the various levels within the same job family or department, with the understanding that the collective bargaining relationship between the state and its employees established through the provisions of chapter 179 must take precedence. Continuing analysis of pay rates, supplementary pay practices and analyses of jobs to determine comparability of job content shall be carried on.

History: 1967 c 193 s 1; 1973 c 507 s 19; 1973 c 653 s 13; 1979 c 332 art 1 s 114; 1980 c 617 s 8,43

43.112 COMPENSATION, TERMS, AND CONDITIONS OF EMPLOYMENT.

Subdivision 1. **Represented employees.** To the extent they are lawfully covered by a collective bargaining agreement, the compensation, terms and conditions of employment for all state employees represented by an exclusive representative certified pursuant to chapter 179 shall be governed by the collective bargaining agreement executed by the parties and approved by the legislature.

Subd. 2. **Non-represented employees.** The compensation, terms and conditions of employment of all state employees not represented by an exclusive representative certified pursuant to chapter 179 shall be solely governed by statute, rule, or the plan developed by the commissioner and approved by the legislature pursuant to sections 3.855, 43.113 and 179.74, subdivision 5.

Subd. 3. **Merit system to control.** The provisions of this chapter governing the recruitment, classification and selection of state employees on the basis of their relative ability, knowledge and skills, including sections 43.111, 43.12, subdivision 1, 43.13 to 43.15, 43.17, 43.18, subdivisions 1 to 3, 43.19, subdivisions 2 and 3, 43.20, and 43.30, shall not be modified, waived or abridged by any contract executed by the state pursuant to chapter 179.

History: 1980 c 617 s 9

43.113 PLAN FOR COMPENSATION, TERMS AND CONDITIONS OF EMPLOYMENT FOR NON-REPRESENTED EMPLOYEES.

Subdivision 1. The commissioner of employee relations shall periodically submit to the legislative commission on employee relations a plan to govern the compensation, terms and conditions of employment for all state employees who are not represented by an exclusive representative certified pursuant to chapter 179 and whose compensation is not provided for by section 43.064 or other law. The commission shall review the plan and submit it to the legislature along with any recommendations it deems appropriate. The plan need not be adopted in accordance with the rulemaking provisions of chapter 15. The plan shall not take effect until approved by the legislature, provided that the legislative commission may give interim approval to a plan and subsequently submit it to the entire legislature for ratification in the same manner as provided for negotiated agreements and arbitration awards under section 179.74, subdivision 5.

Subd. 2. In establishing and recommending compensation for any position within the plan, the commissioner of employee relations shall assure that:

(1) Compensation in the classified and unclassified service bear equitable relationships to one another;

(2) Compensation for state positions bears equitable relationships to compensation for similar positions outside state service;

(3) Compensation for management positions bears equitable relationships to compensation of represented employees managed; and

(4) Compensation for positions within the classified service bear equitable relationships among related job classes and among various levels within the same job family.

Compensations bear equitable relationships to one another within the meaning of this subdivision if compensation for positions which require comparable knowledge, abilities, duties, responsibilities and accountabilities are comparable and if compensation for positions which require differing knowledge, abilities, duties, responsibilities and accountabilities are proportional to the knowledge, abilities, duties and responsibilities required.

History: 1980 c 617 s 10

43.12 COMMISSIONER TO CLASSIFY EMPLOYEES.

Subdivision 1. The commissioner of employee relations shall ensure that all positions in the classified service are assigned to job classifications on the basis of the duties and responsibilities of each position in accordance with the appropriate line of promotion. Titles shall be established for each class of employment for use in examining and certifying names of persons for appointment under this chapter, and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up, minimum qualifications required for satisfactory performance of the duties of each class formulated; and, so far as practicable, the lines of promotion from class to class shall be indicated. The titles of classifications, as defined by the specifications of duties and qualifications, shall be used for all official records affecting or relating to the status of personnel.

Subd. 2. The following procedure will be used in establishing rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the professional salary schedule, which schedule shall be known as salary schedule A. Classes shall be assigned salary ranges within an area of compensation beginning at a prescribed minimum monthly rate of pay and extending upward by a maximum of 33 additional salary increments. Salary range assignments for each class of employment in this schedule shall include no more than ten salary steps. Effective July 4, 1979, the prescribed minimum monthly rate of pay shall be \$981. The maximum monthly rate of pay shall be \$3,598.

Subd. 3. All employees whose rates of pay are established according to salary schedule A, effective July 4, 1979, shall be advanced in salary from their rate of pay and step in salary range immediately preceding that date to the comparable step in the new salary range for their class or to the new minimum rate of pay for their class, whichever rate is greater.

Subd. 4. [Repealed, 1977 c 452 s 36]

Subd. 5. The following procedure shall be used to establish rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the maintenance and related trades schedule, which schedule shall be known as salary schedule B. Classes shall be assigned an orientation and base rate, one consecutive wage step apart. The orientation rate shall be paid during the first six calendar months of service and the base rate shall be paid commencing at the beginning of the pay period nearest the completion of six calendar months of service. In assigning rates of pay to classes of work covered by this schedule, the commissioner shall give primary consideration to the median of rates paid by other public and private employers for similar types of work. Supplementary pay practices shall be evaluated and costs considered in comparing the rates being paid by other employers. The commissioner is authorized to establish a percentage differential based upon full annual employment and tenure where such advantages are not common in employment outside of the state service.

Effective July 4, 1979, the minimum hourly rate of pay in salary schedule B shall be \$5.38. The schedule shall provide for 19 additional wage steps with a maximum rate of \$9.51 per hour. Effective July 2, 1980, the hourly rates of pay

in salary schedule B shall each be increased by 2-1/2 percent, rounded to the nearest cent.

Notwithstanding any provision of this chapter to the contrary, the commissioner is authorized to establish (a) hourly equipment rates to provide appropriate compensation to employees intermittently engaged in operating maintenance equipment, (b) an hourly rate to provide appropriate compensation to employees intermittently assigned to first level highway foreman work, (c) a 60 cent per hour differential rate for journeyman skilled trade classes assigned to salary schedule B and employed at adult institutions of the department of corrections, and (d) a ten cent per hour differential for skilled trade classes assigned to salary schedule B and employed by the department of administration. The commissioner shall establish rules and procedures to equitably implement such rates.

Subd. 6. All employees with more than six calendar months of service whose rates of pay are established according to salary schedule B, effective July 4, 1979, shall be advanced in salary to the established base rate for their class.

Employees with less than six calendar months of service whose rates of pay are established according to salary schedule B, effective July 4, 1979, shall be advanced in salary to the established orientation rate for their class.

Subd. 7. The following procedure shall be used to establish rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the general service salary schedule, which schedule shall be known as salary schedule C. Classes shall be assigned salary ranges within an area of compensation beginning at a prescribed hourly rate of pay and extending upward 37 additional fixed salary increments. Salary range assignments for each class of employment in this schedule shall not include more than eight salary steps. Effective July 4, 1979, the prescribed minimum hourly rate of pay shall be \$3.09. The maximum hourly rate of pay shall be \$9.13.

Subd. 8. All employees whose rates of pay are established according to salary schedule C, effective July 4, 1979, shall be advanced in salary from their rate of pay and step in salary range immediately preceding that date to the comparable step in the new salary range for their class or to the new minimum rate of pay for their class, whichever rate is greater.

Subd. 8a. The following procedure shall be used to establish rates of pay for all state employees whose positions are assigned to the labor service. The labor service shall consist of four steps. Effective July 4, 1979, the hourly rate of pay for step A shall be \$5.14, for step B \$5.29, for step C \$5.90, and for step D \$6.09.

Subd. 9. [Repealed, 1977 c 452 s 36]

Subd. 9a. Employees who are paid at a rate which exceeds the maximum rate established for their class prior to July 4, 1979, but whose rate falls within the new range for their class, shall be assigned to the maximum of the new range. In the event the maximum rate for a classification as of July 4, 1979, is equal to or less than an employee's salary on July 3, 1979, no adjustment shall be made; however, the employee shall suffer no reduction in pay and shall continue at his rate of pay as of July 3, 1979. Conversion to a new compensation grid shall not change an employee's eligibility for step progression increases.

Subd. 10. For each full four-tenths point increase in the revised consumer price index for urban wage earners and clerical workers for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics for the months of October, 1979, and April, 1980, new series index (1967=100), all rates of pay in the A, B, C, special teacher, and labor service salary schedules shall be increased by one cent per hour.

The increase, if any, in wages and salaries generated by this formula shall be effective July 2, 1980, and shall continue in effect until December 31, 1980.

A redetermination of the cost of living allowance shall be made for October, 1980. For each full four-tenths point increase in the revised consumer price index for urban wage earners and clerical workers for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics for the months of October, 1979, and October, 1980, all rates of pay in the A, B, C, special teacher, and labor service salary schedules shall be increased by one cent per hour. The increase, if any, in wages and salaries generated by this redetermination shall be effective December 31, 1980.

During periods when such cost of living allowance is in effect, it shall be added to the applicable basic hourly rate of pay of each employee, including those that are above the maximum step of their range, and treated as a part thereof in all calculations involving employees' pay. Cost of living adjustments are not cumulative and allowances paid under an earlier determination shall cease when a redetermination takes effect.

Subd. 11. The commissioner of finance shall transfer to the various departments and agencies the necessary amounts to finance subdivision 10. These transfers shall be from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general fund and from any other fund, now or hereafter existing for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. In order to enable the commissioner of finance to maintain proper records covering the appropriations for cost of living adjustments and insurance benefit increases, he may require certification as he deems necessary from any state agency, the Minnesota historical society, or the university of Minnesota of the amounts needed to pay these adjustments and increases. The accounts and funds referred to from which agencies receive appropriations under the terms of this section are hereby declared to be a source of revenue for the purposes of any other law or statutory enactment.

Subd. 12. Overtime worked shall be compensated for either by cash payment or compensatory time off as provided for in overtime schedules approved under the provisions of the personnel rules or a collective bargaining agreement entered into under the provisions of sections 179.61 to 179.76.

Subd. 12a. Notwithstanding any provision in this chapter to the contrary, the commissioner is authorized to pay for "work out of class" as required by the personnel rules or a collective bargaining agreement entered into under the provisions of sections 179.61 to 179.76.

Subd. 13. None of the provisions of sections 43.12, subdivision 2, to 43.122, shall apply to employees in the classified civil service under the state civil service act who are paid on a fee basis, or to such employees who are department heads.

Subd. 14. Except for classification reassignments effective July 4, 1979, no class will be reassigned to a higher salary range by the commissioner during the 1979-1981 biennium.

Subd. 15. Notwithstanding the provisions of any other law to the contrary, prior to making an appointment to the unclassified civil service of the executive branch of government, except for unclassified employees compensated in accordance with sections 15A.081 and 43.064, the appointing authority shall provide the commissioner with a detailed job description outlining the duties and responsibilities of the position which the appointee will occupy in such form as the commissioner may prescribe. Any changes in work assignment shall be reported in writing to the commissioner. If, in the judgment of the commissioner, additional information is required in order to establish comparability with positions in the classified civil service, the commissioner shall review the duties of the position in the same manner as a position in the classified civil service would be

investigated. All persons in the unclassified civil service of the executive branch of government, except those whose salary is set specifically by statute, shall be paid according to the compensation provisions applicable to employees performing comparable work in the classified civil service, but in no event shall unclassified personnel receive rates of pay which exceed the maximum rate of the salary range established for comparable work in the classified civil service. The appointing authority shall provide the commissioner with a personal resume of the appointee at the time of appointment to a position subject to the provisions of this subdivision.

Subd. 16. Effective July 4, 1979, employees whose positions are assigned to classes in the A, B, C, labor service, and special teachers salary schedules working an assigned shift that begins before 6:00 a.m. or which ends on or after 7:00 p.m. shall receive a shift differential of 20 cents per hour for all hours worked on that shift in addition to their regular rate of pay. Shift differential shall be included in all payroll computations for hours worked but shall not apply during periods of paid leave.

Employees working the regular day schedule who are required to work overtime or who are called back to work for special projects shall not be eligible for the shift differential.

Subd. 17. Effective July 1, 1979; any employee who is separated from the state civil service by reason of death, mandatory retirement, retirement at or after 65, or layoff, excluding seasonal layoffs, or who is separated after completing 20 years of continuous state service, or who retires from state service after ten years of continuous state service and is immediately entitled at the time of retirement to receive an annuity under a state retirement program, notwithstanding an election to defer payment of the annuity, shall be entitled upon such separation, to pay in an amount equal to 40 percent of the employee's accumulated but unused sick leave balance at the time of separation, which balance shall not exceed 900 hours, plus 25 percent of the employee's accumulated but unused sick leave in excess of 900 hours, times the employee's regular rate of pay at the time of separation.

Should any employee who has received severance pay be subsequently reappointed to state service, eligibility for future severance pay shall be computed upon the difference between the amount of accumulated but unused sick leave to the employee's credit at the time the employee was separated and the amount of accumulated but unused sick leave at the time of the employee's subsequent eligibility for severance pay.

Such severance pay shall be excluded from retirement deductions and from any calculations in retirement benefits and shall be paid over a period not to exceed five years from termination of employment. In the event that a terminated employee dies before all or a portion of the severance pay has been disbursed, that balance due shall be paid to a named beneficiary or, lacking same, to the deceased's estate.

Subd. 18. The commissioner is hereby empowered to establish by rule an injured on duty compensation plan for certain classes of state employees in hazardous or dangerous classes of employment and for special teachers employed by the departments of corrections and public welfare and by the department of education at the Minnesota School for the Deaf and the Minnesota Braille and Sight Saving School. Said plan shall not be subject to the limitations contained in section 176.021, subdivision 5.

Subd. 19. (a) There is established a career executive service within the Minnesota state service.

The purpose of the career executive service is to provide a system for identifying, developing and recognizing key individuals in the state service who

occupy high level professional and managerial positions in the classified civil service.

(b) The commissioner shall designate positions in the classified civil service of the state as eligible for inclusion in the career executive service. Such positions shall include those which carry basic responsibilities for high level professional or scientific competence, policy determination, leadership, or the internal management and administration of a department or other major unit.

The incumbents of such positions shall be selected from among the employees of the state, or its political subdivisions, as set forth in this subdivision.

(c) Eligibility for appointment to the career executive service shall be in accordance with regulations and procedures as the commissioner shall determine. Assignments will be made only after the nominee has achieved permanent or probationary civil service status in the class occupied at the time nomination is made and after meeting requirements as determined by the commissioner.

(d) The provisions of this chapter, and sections 197.45 to 197.48 insofar as they relate to the selection, classification, preference, transfer, tenure and other conditions of employment shall not apply in the selection and assignment of personnel in the career executive service. Appointments may be terminated by the appointing authority, provided, however, that the termination is not based on reasons of politics, religion, race, age, sex, or disability.

(e) The commissioner shall certify the names of those persons meeting requirements established elsewhere in this subdivision to the appointing authority, and the appointing authority shall be limited in his appointment to such list.

(f) No person appointed to the career executive service shall be deemed to acquire any vested rights or tenure to such appointment, provided however, that the time served in such appointment shall be credited to the employee's seniority, sick leave, vacation, and retirement rights if the employee was appointed to the career executive service from the classified civil service. An employee may be reassigned to another career executive service position at the same or lower level at the discretion of his appointing authority. An employee removed from the career executive service who was appointed from the classified state civil service shall be reinstated to his former grade in the same or similar position under the civil service laws and his compensation shall be at the level formerly received plus any annual increments he would have received had he remained in the schedule provided in subdivision 2.

(g) The commissioner may establish and enforce regulations and procedures with respect to the career executive service to ensure compliance with the purposes and intent of this subdivision.

(h) Notwithstanding any provision to the contrary, persons appointed to the career executive service shall be subject to the retirement requirements set forth in section 43.051.

Subd. 20. Individuals appointed to the career executive service shall be paid according to a compensation plan developed by the commissioner. Salaries established under this plan shall be limited to amounts 20 percent above the maximum of the salary range for the employee's job classification in the classified civil service.

The commissioner shall ensure that the salary administration provisions of the plan and the methods of compensation provide sufficient incentives and flexibility to encourage responsiveness, innovation, and efficiency in incumbents appointed to the career executive service.

The salary rate to be paid an employee, within the plan developed by the commissioner, shall be determined by the appointing authority within guidelines

established by the commissioner. The beginning salary rate and any subsequent changes shall be reported to the commissioner by the appointing authority.

Subd. 21. The commissioner shall allocate each position in the classified civil service to one of the classes within the classification plan, and thereafter all salary rates, schedules, or compensation policies shall apply uniformly to all positions within each class, in accordance with rules and regulations established by the commissioner, except to those positions for which special provision is made in subdivision 26. When a position which has not been allocated to one of the classes within the classification plan is established, the appointing authority shall notify the commissioner, who shall allocate the new position to its appropriate class.

Subd. 22. After the commissioner makes an allocation under subdivision 21, he shall notify the appointing authority affected, in writing, of that allocation. The allocation shall become immediately effective, but the appointing authority may within ten days file with the commissioner an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which that appointing authority may desire considered by him. The commissioner shall act upon that application within ten days after receiving it, and notify the appointing authority of his final action.

Subd. 23. Whenever, because of changes in the organizational structure of an agency, in the duties of a position, or for some other reason, a position appears to be improperly allocated, the commissioner shall, upon his own initiative, or upon the written request of a permanent employee or an appointing authority, investigate the duties of the affected position. Following that investigation he may reclassify it to an appropriate class. If the commissioner makes a reclassification or denies an application for reclassification, under this subdivision, he shall notify the appointing authority and the employee affected of his action. A permanent employee or appointing authority affected by any such action shall have the same right to make an application for reconsideration as is granted an appointing authority in the case of an original allocation by subdivision 22, and the procedure set out in subdivision 22 shall apply to such application. Except as provided in subdivision 26, any reclassification granted by the commissioner shall become effective upon the expiration of the time fixed for making an application for reconsideration, if none is made, or if one is made, at the date of notice by the commissioner of his final action.

Subd. 24. In case of any allocation under subdivision 21, or any reclassification under subdivision 23, no examination of witnesses nor any trial or hearing shall be required, but the commissioner may act upon such matters as are submitted to him in writing by the employee whose position will be affected by a reclassification, or by the appointing authority who will be affected by an allocation or a reclassification, and reports and records of investigators of the department, and may take official notice of the records of the department and of allocations of other comparable positions. The matters of which he takes official notice shall be set out by him in a memorandum to be filed with his order or report of investigation and made a part of his record. In all cases of applications for reclassification, the burden of proof shall be upon the person requesting the reclassification.

Subd. 25. Except as provided in subdivision 26, the incumbent of a position which has been reclassified shall continue in the position only if he is eligible for and actually is appointed to the position of the new class in accordance with the provisions of this chapter and the personnel rules or a collective bargaining agreement entered into under the provisions of sections 179.61 to 179.76 governing reallocation or change in allocation of positions, promotion, transfer, and demotion. In any case in which the incumbent is ineligible to continue in the position and he is not transferred, promoted or demoted, the layoff provi-

sions of this chapter and the personnel rules or a collective bargaining agreement entered into under the provisions of sections 179.61 to 179.76 shall apply. Personnel changes required by the reclassification of positions shall be completed within a reasonable period of time, as prescribed by the commissioner, following the reclassification notice to an appointing authority. Any employee with permanent or probationary status whose position is reallocated shall be considered eligible to compete in any examination held to fill the reallocated position, as provided in the personnel rules.

Subd. 26. When a position is reallocated by the commissioner to a class in a lower salary range, or when an employee is demoted to a position in a lower salary range, the commissioner may give consideration to the employee's long or outstanding service, exceptional or technical qualifications, age, health, or substantial changes in work assignment or operational changes in state government which eliminate positions held by classified employees with permanent status. When, as a result of such consideration, the commissioner determines that the best interests of the state will be served by such action, the position shall be reallocated but the employee shall continue at the same rate of pay. Thereafter, as long as he remains in the same position, such employee shall not be eligible to receive any salary increases, except those economic adjustment increases based on the consumer's price index authorized by law, until such time as his salary once again may be within the range of the class to which his position has been reallocated.

Subd. 27. Notwithstanding the provisions of this section or any other law to the contrary, the commissioner of employee relations may establish a system of incentive commission rates for those state employees engaged in the sale of products manufactured or processed at state adult correctional institutions.

History: 1939 c 441 s 12; 1943 c 639 s 1; 1945 c 598 s 2; 1947 c 604 s 2; 1947 c 606 s 1; 1949 c 646 s 2; 1951 c 161 s 1; 1955 c 659 s 1; 1957 c 716 s 1; 1957 c 877 s 1; 1963 c 754 s 1; 1967 c 193 s 2; 1969 c 6 s 4; 1969 c 144 s 1-3; 1969 c 189 s 1; Ex1971 c 32 s 2,3; 1973 c 35 s 17; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 653 s 14-17; 1974 c 364 s 4,5; 1975 c 321 s 2; 1975 c 431 s 2-5; 1976 c 229 s 3; 1976 c 239 s 16; 1977 c 452 s 7-19; 1978 c 793 s 55; 1979 c 332 art 1 s 20-37; 1980 c 617 s 47 (254-60)

NOTE: Subdivisions 2 to 27 were also repealed by Laws 1979, Chapter 332, Article 1, Section 114, as amended by Laws 1980, Chapter 617, Section 43, effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114, as amended by Laws 1980, Chapter 617, Section 43.

43.121 SALARY RANGE ASSIGNMENT.

Subdivision 1. The commissioner shall ensure that each class of employment in the classified service is assigned to one of the salary schedules established by section 43.12, subdivisions 2 to 18 and 21 to 26, at a salary level consistent with the provisions of section 43.111.

Subd. 2. When an additional class is added to the classification plan by the commissioner, it shall be assigned to one of the salary schedules set forth in section 43.12, subdivisions 2 to 18 or 21 to 26. Such assignment to a salary schedule when approved by the commissioner shall be submitted to the commissioner of finance who shall determine whether funds are available for such purposes. The commissioner of finance may approve or reject the establishment of such new classes on the basis of availability or non-availability of funds. These classes, and the approved compensation for them, shall become effective when approved by the commissioner of finance and shall be used by him in connection with all payrolls and accounting records and with all budget estimates for all departments or agencies of the state government. Upon his approval, the commissioner of finance shall file such new classes, and the approved compensation for them, in the office of the secretary of state.

Subd. 3. Notwithstanding the provisions of this section, the commissioner may assign the classes of employment which require teaching in an established school program in the department of education and institutions of the state under the jurisdiction of the department of public welfare and the department of corrections to salary ranges, which he is hereby authorized to establish. Whenever the commissioner assigns classes of employment which require teaching in an established school program to any salary range which he is authorized to establish by this subdivision, he shall prepare schedules showing the salary ranges for each class, or group of positions in the class of positions assigned by him and he shall also prepare schedules showing entrance salaries and step increases based upon educational attainments and length of satisfactory service. The salary ranges shall include a minimum rate and not more than 12 additional step increases. In assigning ranges of salaries for positions in this category the commissioner shall give consideration to the salary schedules for teachers which are in effect in other units of government of the state. The commissioner is authorized to establish a schedule of payment for assignments to extra-curricular activities which are in addition to the normal teaching schedule.

The basic salary for institution educational administrators and supervisors shall be based upon the employee's qualifications and the appropriate academic level of the special teacher salary schedule. However, the commissioner is authorized to establish a percentage differential to compensate for administrative and supervisory responsibilities. Annual length of satisfactory service salary adjustments shall be awarded beginning with the payroll period nearest the anniversary date of the special teacher's, institution educational supervisor's or institution educational administrator's original or promotional appointment to his present class, unless he is notified in writing by the appointing authority that his work has been of a less than satisfactory level.

History: 1945 c 598 s 3; 1947 c 606 s 2; 1951 c 715 s 1; 1953 c 717 s 1; 1955 c 659 s 2; 1959 c 475 s 1; 1963 c 754 s 2; 1967 c 193 s 3,4; 1969 c 144 s 4; Ex1971 c 32 s 4; 1973 c 653 s 18; 1974 c 364 s 6-8; 1975 c 431 s 6-8; 1977 c 452 s 20

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.122 INDIVIDUAL SALARY INCREASES.

Subdivision 1. MS 1953 [Repealed, 1955 c 659 s 9]

Subdivision 1. Appointing authorities are authorized to grant achievement awards in the amount of one salary step for employees assigned to salary schedule A, who have demonstrated outstanding performance, subject to personnel rules which the commissioner shall issue. In no instance shall such awards be granted in excess of 30 percent of employees authorized at the beginning of each fiscal year. Employees within the 30 percent limitation who are at or above the maximum of their salary range may be granted an achievement award, but the award, if granted, shall be paid in a lump sum equal to the annual equivalent of one-half the difference between the last two steps of the employee's range. This payment shall be provided in accordance with the procedures established by the commissioner of finance. Appointing authorities shall make every effort to distribute achievement awards equitably among and within all classifications to eligible employees.

Subd. 2. Within the limits of available appropriations an appointing authority may propose salary increases within the range of more than one step or more frequently than provided in this section upon detailed written statements to the commissioner specifying the unusual employment conditions that make such action necessary. The commissioner shall review each such proposal giving due consideration to the salary rates paid other employees in the same class and agency and may deny any request which in his judgment is contrary to the best interest of the service.

Subd. 3. (a) Employees in classes assigned to the "A" salary schedule may receive a one step salary increase annually, at the beginning of the first full payroll period nearest their anniversary date, to the position rate in their salary range, provided performance is satisfactory as indicated by their appointing authority.

The position rate shall be as follows:

- 10 step salary range - 6th step
- 9 step salary range - 5th step
- 8 step salary range - 5th step
- 7 step salary range - 4th step
- 6 step salary range - 4th step
- 5 step salary range - 4th step
- 4 step salary range - 3rd step
- 3 step salary range - 3rd step

Beyond the position rate, employees may receive one step satisfactory performance increases biennially, at the beginning of the first full payroll period nearest their anniversary date, upon the recommendation of their appointing authority, up to and including the maximum rate of the salary range for their class.

No increases authorized by this subdivision shall be granted by the appointing authority until an appropriate employee evaluation program is filed with the commissioner. Authorized increases shall be recommended in the context of performance measured against specific performance standards or objectives.

Appointing authorities shall not recommend increases for those employees in this schedule who have not met, or only marginally attained, performance standards or objectives. Increases withheld may subsequently be granted by the appointing authority upon certification to the commissioner that the employee is achieving performance standards or objectives.

(b) Employees in classes assigned to the "C" salary schedule shall progress through the salary range for their class according to the following procedure:

Employees compensated at the first step in their salary range shall be advanced to the second step at the beginning of the first full payroll period nearest the completion of six calendar months of satisfactory service at the first step. Employees compensated at the second step in their salary range shall be advanced to the third step at the beginning of the first full payroll period nearest the completion of six calendar months of satisfactory service at the second step.

Employees compensated at or beyond the third step in their salary range shall advance to the next highest rate in their salary range at the beginning of the first full payroll period nearest completion of each subsequent 12 calendar months of satisfactory service until the maximum rate of pay is attained.

Employees compensated at the maximum step in their range or above shall receive no salary adjustments under the provisions of this subdivision.

(c) Appointing authorities may withhold increases authorized in clause (b). Those employees who will be denied an increase because of unsatisfactory service must be notified in writing. Increases withheld may subsequently be granted by the appointing authority upon certification to the commissioner that the employee has achieved a satisfactory level of performance.

Subd. 4. To determine anniversary dates for the purposes of this section, the following procedure shall be used. For all persons employed on or before May 30, 1973, annual anniversary dates shall be computed from that date. For those employed subsequent to May 30, 1973, the anniversary date shall be computed from the date of employment. For those promoted, reinstated after resig-

nation or retirement, or reemployed subsequent to May 30, 1973, the anniversary date shall be computed from the date of the action. The date of reinstatement shall be the anniversary date for an employee reinstated during the period May 30, 1973 through June 30, 1975, after a leave of absence. After June 30, 1975, a reinstatement from a leave of absence shall not affect the employee's anniversary date. Anniversary dates shall not be affected by the withholding of increases authorized in subdivision 3, clause (a).

Subd. 5. Employees who are hired for positions assigned to the labor service shall be hired at step A. Employees shall advance to step B after 800 hours of service within a calendar year; to step C after completion of 800 hours in the second of two consecutive calendar years in which at least 800 hours at step B are worked; and to step D after completion of 800 hours in the second of two consecutive calendar years in which at least 800 hours at step C are worked. Advancement to the next higher step shall be effective at the beginning of the first payroll period following completion of the service requirement. Service requirements must be fulfilled with the same appointing authority, at the same principal place of employment, and performing similar work. Tenured laborers whose employment relationship is severed shall be considered to be new employees for purposes of this subdivision if they are subsequently reappointed to the labor service and shall be reappointed at step A.

Nontenured laborers who fail to meet the service and hour requirements for advancement in any calendar year and who are subsequently reappointed to the labor service with the same appointing authority within one year of termination shall be reappointed at the step at which they were last paid.

Tenured laborers who fail to meet the service and hour requirement for advancement in any calendar year shall continue at the step at which they were last paid until they meet the service and hour requirements for advancement.

History: 1945 c 598 s 4; 1967 c 193 s 5; 1969 c 144 s 5; Ex1971 c 32 s 5; 1973 c 507 s 20,45; 1973 c 653 s 19; 1975 c 431 s 9-11; 1977 c 452 s 21,22; 1979 c 332 art 1 s 38

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.123 Subdivision 1. [Repealed, 1967 c 193 s 7]

Subd. 2. [Repealed, 1967 c 193 s 7]

Subd. 3. [Repealed, 1967 c 193 s 7]

Subd. 4. [Repealed, 1967 c 193 s 7]

Subd. 5. [Repealed, 1955 c 659 s 9]

Subd. 6. [Repealed, 1955 c 659 s 9]

Subd. 7. [Repealed, 1967 c 193 s 7]

43.124 [Repealed, 1955 c 659 s 9]

43.125 [Repealed, 1967 c 193 s 7]

43.126 SPECIAL RATES OF PAY.

Subdivision 1. Notwithstanding the provisions of sections 43.12 and 43.121 to 43.123, the following salary ranges are established with annual salaries as shown:

Range A	\$32,000	to	\$45,000
Range B	\$37,000	to	\$54,000
Range C	\$42,000	to	\$67,500

Subd. 2. When it becomes apparent that the performance of certain functions of the state government is of such public concern as to demand employment of exceptionally qualified doctors of medicine and where it can be clearly demonstrated that such employees cannot be employed at the rate provided for

in sections 43.12 and 43.121 to 43.123, an appointing authority may propose that positions in the classified service be assigned to one of the ranges listed in subdivision 1. Such proposals shall be made to the commissioner of employee relations who shall take into consideration the standards of eligibility established by the appropriate national medical specialty board. The commissioner shall conduct local and nationwide surveys of compensation paid for like positions, shall give consideration to this data, and may assign to one of the ranges listed in subdivision 1, on an individual basis, such positions as he determines to come under the provisions of this subdivision. All such assignments and future reassignments made under the provisions of this section shall be reported to each branch of the legislature if it is in session, or if it is not in session, at the opening of the next legislative session. Positions so assigned, and positions and employees in such classes shall be subject to the provisions of all applicable sections of this chapter except sections 43.12, subdivisions 2 to 18 and 43.121 to 43.123. Employees in such classes shall not be eligible for economic adjustment increases nor for increases above the maximum of their ranges as established by subdivision 1. The procedures outlined in this section concerning the assignment of positions into the ranges provided for in subdivision 1 shall in no way supersede, amend or stand in place of the provisions of section 43.13.

Subd. 3. The commissioner may subsequently reassign a position to a different range listed in subdivision 1, if in his judgment such reassignment is in the public interest. Assignments or reassignments to ranges listed in subdivision 1 shall continue until such time as the commissioner determines that the reasons for such special assignments no longer exist, at which time the commissioner shall remove such positions from such assignment. Subsequent to such action he shall assign such positions to one of the schedules listed in section 43.12, subdivisions 2 to 18, as provided in section 43.121, subdivision 2.

Subd. 4. The salary rate to be paid to an employee, within the range assigned by the commissioner, shall be determined by the appointing authority. The beginning salary rate and any subsequent changes shall be reported to the commissioner by the appointing authority.

History: *Ex1961 c 37 s 1-4; 1967 c 667 s 1; 1969 c 6 s 5,6; Ex1971 c 32 s 6; 1973 c 653 s 20; 1974 c 364 s 9-11; 1975 c 431 s 13,14; 1977 c 452 s 23; 1979 c 332 art 2 s 5; 1980 c 617 s 47*

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.127 STATE MANAGEMENT GROUP.

Subdivision 1. **Development of plans.** The commissioner shall establish appropriate plans for training and development, mobility and compensation for those classified positions identified as being managerial pursuant to section 43.326. Such plans shall be oriented toward enhancing the capability of state managers to effectively and efficiently direct the resources and programs for which they are accountable.

Subd. 2. **Managers excluded from bargaining units.** Incumbents of classified positions defined as managerial by section 43.326 shall be excluded from any bargaining units under the provisions of chapter 179.

Subd. 3. **Management compensation schedule.** The management compensation schedule shall provide compensation methods and levels for state managers that will be generally comparable to those applicable to managers in other public and private employment. Provisions of the schedule shall ensure that compensation within assigned salary ranges is directly related to level of performance. In assigning salary ranges, the commissioner shall utilize an objective evaluation system which takes into consideration the knowledge, ability, responsibility, and accountability of positions. Employees assigned to positions in the management compensation schedule shall be exempt from all overtime provisions.

Subd. 4. **Salary progression.** All salary increases within ranges for employees compensated according to this section must be specifically recommended by the appointing authority and based on evaluated job performance according to the results oriented performance appraisal system as provided by section 43.245. The commissioner shall establish and enforce guidelines which relate the amount and timing of achievement increases to relative levels of evaluated job performance.

Appointing authorities shall file a written report with the commissioner by August 15 of each year, in the format prescribed by the commissioner, indicating all increases granted during the previous fiscal year under the provisions of this subdivision. On the basis of the reports the commissioner may require prior approval of all increases for managerial employees in departments where guidelines are not being appropriately applied.

Subd. 5. **Adjustments of salary ranges.** Salary ranges for classifications assigned to the management compensation schedule shall be adjusted by cost-of-living provisions on the same dates and by the same amounts as determined for salary ranges in the "A" schedule as provided in section 43.12; provided that if the cost-of-living adjustment for an "A" schedule employee is to be computed as a percentage of his salary, the amount of the adjustment for an employee compensated pursuant to the management compensation schedule shall not exceed the amount that would result if that percentage were applied to the average salary of all employees compensated pursuant to the management compensation schedule. Employees whose monthly rate of pay is lower than the adjusted minimum monthly rate for their class as a result of any cost-of-living adjustment shall be adjusted to the new minimum rate. All other employees eligible under subdivision 1 shall not receive the adjustments unless specifically recommended by their appointing authority on the basis of evaluated job performance.

Subd. 6. **Employee benefits.** The commissioner may design an employee benefit system for employees defined as managerial providing flexibility between leave, insurance, and other compensation items, which may differ from those for other state employees. Retirement items shall not be included in the commissioner's authority. The managerial benefits established under the provisions of this subdivision may be extended to unclassified managers, including those department heads and deputies whose salaries are established in section 15A.081, subdivisions 1 and 5.

History: 1975 c 276 s 2; 1979 c 332 art 1 s 39

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.128 SALARY INCREASES, UNCLASSIFIED SERVICE.

Subdivision 1. The salaries of all employees in the unclassified civil service of the executive branch whose salary is not fixed by section 15A.081, shall be adjusted to the class of persons in the classified civil service performing comparable work and having comparable responsibility, as determined by the commissioner of employee relations but in no event to an amount in excess of the maximum of such class.

Subd. 2. The provisions of subdivision 1 shall not apply to state employees listed in sections 43.09, subdivision 2, clause (7) and 136A.03, except that the appointing authority of such employees shall submit a salary schedule to the commissioner for approval before such schedule may become effective. The provisions of subdivision 1 shall further not apply to salaries for positions which are exempted from the commissioner's salary setting authority under the provisions of section 43.064.

History: *Ex1971 c 3 s 51; Ex1971 c 48 s 4; 1973 c 507 s 21; 1974 c 511 s 13; 1980 c 617 s 47*

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.13 EXAMINATIONS.

Subdivision 1. **Fair tests; records.** All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to efficiently discharge the duties of the position sought by them. Each applicant in an oral examination shall be rated individually by each examiner who shall sign his rating of the applicant. The average of the examiners' separate ratings, if more than one examiner conducts the oral examinations, is the applicant's oral examination rating.

Subd. 2. **Eligibility; time; place.** The competitive examinations shall, after published notice, be open to all applicants, and who meet with reasonable standards or requirements fixed by the commissioner with regard to such factors as may be held to relate to the ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education or physical condition except such as relate directly to the duties of the office or employment to be filled. Persons under such physical disability as not to make them ineligible by reason thereof, shall be examined in such manner as will fairly test their ability to perform the duties of the position, notwithstanding such physical disability. In the case of an applicant who is blind, the department shall provide the applicant with either a braille examination, the services of a reader chosen by the applicant with the approval of the department, or, subject to the approval of the applicant, such other means of examination as are available to the examining department. The commissioner may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require.

Subd. 3. **Tests validated.** Examination for positions in the classified service shall relate to those areas which will reasonably measure success on the job. Appropriate scientific means of selection shall be used and empirical studies to validate examinations shall be conducted wherever feasible. No means of selection shall be used which are culturally specific unless it can be demonstrated that performance on such measures is significantly and directly related to job performance. The commissioner shall have discretionary authority regarding oral entrance level examinations.

Subd. 4. **Frequency of testing.** The commissioner shall devise and publicize a schedule of testing for all classes in the classified service designed to insure that examinations will be given at a frequency commensurate with the occurrence of vacancies in positions in each class and reflective of the need of appointing authorities to fill vacant positions rapidly. Procedures for the incorporation of scores into one eligible list if more than one examination is given for a class in one year and necessary restrictions on the ability of an applicant to take repeated examinations for the same class shall be adopted as rules.

History: *1939 c 441 s 13; 1953 c 516 s 1; 1955 c 774 s 3; 1965 c 299 s 1,2; 1969 c 145 s 1; 1971 c 158 s 1; 1973 c 507 s 22; 1978 c 734 s 1,2; 1979 c 332 art 1 s 114; 1980 c 617 s 43 (254-61)*

43.14 EXAMINATION REFUSED; APPEAL; BOND.

Subdivision 1. **Reasons for refusal.** The commissioner may refuse to examine an applicant, or after examination may refuse to certify an eligible, who is found to lack any of the preliminary requirements established for the examination for the position for which he applies; or who is physically so disabled as to be rendered unfit for the proper performance of the duties of the position to which he seeks appointment; or who is addicted to habit-forming drugs or is an

habitual user of intoxicating liquors to excess; or who has been dismissed from the public service for delinquency or misconduct; and shall refuse to certify an eligible who has made a false statement of any material fact; or who, directly or indirectly, shall give, render or pay, or promise 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; or 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; or who refuses to furnish testimony as required in section 43.07.

Subd. 2. Appeal from refusal. When the commissioner refuses to examine an applicant, or after an examination refuses to certify an eligible, as provided in this section, then the commissioner, upon request of the person so rejected, shall furnish to him a statement of the reasons for such refusal to examine or refusal to certify, as the case may be.

Subd. 3. Requirement for bond included in notice of examination. When any position requires the appointee to furnish a bond, such requirements shall be included in the announcement of the examination for the position.

History: 1939 c 441 s 14; 1973 c 507 s 45; 1974 c 364 s 12; 1978 c 734 s 4; 1979 c 332 art 1 s 114; 1980 c 617 s 43 (254-62)

43.15 AFFIRMATIVE ACTION; DISCRIMINATION FORBIDDEN.

Subdivision 1. Statewide affirmative action program. In order to assure that positions in the state civil service are equally accessible to all qualified persons, and in order to eliminate the underutilization of qualified members of protected groups, the commissioner of employee relations shall adopt and periodically revise as necessary a statewide affirmative action program covering all agencies in the executive branch. The commissioner shall designate a state director of equal employment opportunity to serve in the unclassified service and to whom may be delegated the preparation, revision and implementation of the program. The statewide program and any revisions thereto shall be adopted as rules and individual agency affirmative action plans adopted pursuant to the statewide program shall be in accordance with adopted rules. As used in this section, "protected group" means a group consisting of females, handicapped persons, and until 1989 veterans who served in the military service of this country during the period from August 5, 1964, to May 7, 1975, and separated under honorable conditions from any branch of the armed forces of the United States: (a) after having served on active duty for 181 consecutive days or (b) by reason of disability incurred while serving on active duty, and who are permanent residents of the state of Minnesota, or members of the following minorities: Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan native.

Subd. 2. Content of statewide program. The statewide affirmative action program shall consist of at least the following:

- (a) a statement of general goals and policies to be followed in the state civil service in respect to affirmative action;
- (b) forms, procedures, standards and assumptions to be used by state agencies in the preparation of their agency affirmative action plans;
- (c) goals and timetables which the state civil service as a whole will be expected to meet;
- (d) periodic reporting requirements whereby the head of each agency will be required to report to the governor and the legislature on the implementation of his agency's plan.

Subd. 3. Agency affirmative action plans. The head of each agency in the executive branch shall prepare and implement an affirmative action plan consistent with subdivisions 1 and 2. Prior to implementation, the plan shall be sub-

mitted to the commissioner for approval or modification. Annually, or more often if necessary, the plan shall be updated and resubmitted to the commissioner.

Subd. 4. Affirmative action officers. Within each agency the agency head shall appoint an affirmative action officer who shall have primary responsibility for the administration of the agency's affirmative action plan. To the extent possible consistent with complement and budget restrictions, the affirmative action officer shall devote full time to affirmative action-related activities. The officer shall report directly to the agency head on affirmative action matters. The commissioner of personnel shall implement periodic training programs for affirmative action officers and shall provide the officers with necessary technical assistance.

Subd. 5. Expansion of eligible lists to meet affirmative action goals. When the commissioner determines that a disparity exists between the agency's work force and its approved affirmative action plan, the commissioner shall insure to the extent possible that members of the protected groups for which the disparity exists are included on that portion of the eligible list of persons to be considered for appointment, which list is hereinafter referred to as the "appointment list". Notwithstanding any contrary provision of this chapter, when a position is to be filled by open competitive examination and fewer than three individuals of all protected groups for which a disparity has been determined to exist appear on the appointment list, the commissioner shall certify, if possible, as many additional names in order from the eligible list as are necessary so that an aggregate total of three persons from all the protected groups for which a disparity has been determined to exist appear on the appointment list. Notwithstanding any contrary provision of this chapter, when a position is to be filled by examination other than open competitive examination and fewer than one-third of the individuals on an appointment list are members of the protected groups for which a disparity has been determined to exist, the commissioner shall certify, if possible, as many additional names in order from the eligible list as are necessary so that persons from all the protected groups for which a disparity has been determined to exist comprise one-third of the appointment list or until an aggregate total of three persons from all the protected groups for which a disparity has been determined to exist appear on the appointment list, whichever comes first. However, the appointment list shall not be expanded when the position to be filled is covered by a collective bargaining agreement which provides for the filling of vacancies by seniority and the appointment list developed in accord with section 43.18 includes the names of one or more employees within the bargaining unit in which the vacancy exists. Notwithstanding any provision of this subdivision to the contrary, no person shall be added to an appointment list as a result of this subdivision if that person received a score of less than 70 on the applicable test.

Subd. 6. Discrimination prohibited. No discrimination shall be exercised, threatened, or promised by any person in the civil service against, or in favor of, any applicant, eligible, or employee in the civil service because of his political or religious opinions or affiliations, or age, race, sex, or disability. Implementation of subdivisions 1 to 5 shall not be deemed a violation of this subdivision or a violation of any provisions of chapters 43 or 363, nor shall this section be construed to deny a veteran a credit afforded him pursuant to section 43.30.

History: 1939 c 441 s 15; 1973 c 507 s 23; 1978 c 708 s 1; 1979 c 245 s 1; 1979 c 332 art 1 s 40; 1980 c 614 s 69; 1980 c 617 s 47 (254-63)

43.16 [Repealed, 1975 c 399 s 2]

43.162 VALIDITY OF APPLICATIONS.

No person shall be appointed to a position in the civil service until the appointing authority has made reasonable effort to verify any information contained in the prospective employee's job application which relates to the ability of the person to perform the job. The commissioner shall establish procedures, which shall not be promulgated as rules, for use by an appointing authority in performing this verification function. Notice of the verification responsibilities of the appointing authority shall be conspicuously printed on all state employment application forms.

History: 1978 c 734 s 5

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.17 APPOINTMENTS.

Subdivision 1. **Appointments; promotions; reinstatements.** Appointments, promotions, and reinstatements to all positions in the classified service under the provisions of this chapter, and the rules made in pursuance thereof, shall be made from among those certified to the appointing officer.

Subd. 2. **Term of eligibility.** The term of eligibility of applicants on original entrance lists shall be six months, and on promotion and reinstatement lists shall be one year, but the term of any list may be extended by the commissioner. In no case may eligibility be extended for a period of more than three years, except for layoff lists, eligibility on which shall extend for eight years or the length of the employee's state seniority, whichever is less.

Subd. 3. **Certified lists; appointments made from.** Appointments shall be made from the eligible list determined appropriate by the commissioner. Where the vacancy to be filled is in a position covered by a collective bargaining agreement, the appointment list shall be made available upon request to the exclusive representative as defined in sections 179.61 to 179.76. The commissioner shall have authority to establish separate eligible lists applicable to various localities. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, nor assigned, except pursuant to the "work out of class" provisions of the personnel rules or a collective bargaining agreement, to perform the duties of any position in the classified service, unless he has previously qualified therefor under the provisions of this chapter.

Subd. 4. [Repealed, 1973 c 233 s 3]

Subd. 4a. Notwithstanding any law to the contrary, persons may be employed by any governmental agency in the classification of service worker or be employed as a pre-service trainee, as defined by applicable personnel job description or personnel rule, in excess of any personnel limitations, quotas or complements as established by law. Said employment shall be subject to restrictions contained in section 16A.123 and shall be subject to the advance approval of the commissioner of finance.

History: 1939 c 441 s 17; 1971 c 538 s 1; 1973 c 233 s 1; 1973 c 507 s 24,45; 1975 c 381 s 8; 1975 c 431 s 12; 1979 c 332 art 1 s 41,42,114; 1980 c 617 s 43 (254-65)

43.171 [Repealed, 1957 c 141 s 1]

43.18 VACANCIES.

Subdivision 1. **Notice.** Appointing authorities shall give written notice to the commissioner of employee relations of their intention to establish new positions and of the existence of any vacancy to be filled in the classified service, and, within a reasonable time after the receipt of this notice, the commissioner shall certify, from the list of eligibles, appropriate for the class in which the position is classified, names in the manner as provided in this section.

Subd. 2. **Promotions.** In the case of positions to be filled by examinations other than open competitive examinations, the commissioner shall certify, from the list of eligibles, appropriate for the class in which the position is classified, the first three names on such list together with any additional names of persons having an examination rating within three points of the person on the list with the highest examination rating and with any additional names of persons having the same score as the last name certified in accordance with the above, except as provided in sections 43.23 and 43.19, subdivision 1.

Subd. 3. MS 1971 [Repealed, 1973 c 507 s 47]

Subd. 3. **Original entry.** In the case of positions to be filled by open competitive examination, the commissioner shall certify the first ten names on the list together with any additional names of persons having the same score as the tenth name so certified. Appointments from the list shall only be made from the names so certified. The commissioner shall promulgate rules so that a determination of unavailability by an appointing authority will be based on a statement of unavailability from the eligible or lack of response by the eligible to notification by certified mail of the open position. Before requesting a recertification based on unavailability or rejection of an eligible, the appointing authority shall demonstrate the unavailability of an eligible or shall provide reasons for requesting the removal of an eligible's name from the certification.

Subd. 4. **Appointment; probation.** The appointing authority 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, except as provided in section 43.23. Seniority may also be one of the factors in an appointment in the manner as provided by rule. The provisions of this section shall not apply when the employment situation is among those listed in section 43.20, for which competitive examinations are not required.

History: 1939 c 441 s 18; 1955 c 774 s 4; 1973 c 507 s 25; 1975 c 45 s 1; 1975 c 431 s 15; 1978 c 734 s 6; 1979 c 332 art 1 s 114; 1980 c 617 s 11,47 (254-66)

43.19 VACANCIES; PROMOTIONS; DISMISSALS.

Subdivision 1. **Vacancies filled by promotion.** (1) Vacancies in positions shall be filled, so far as practicable, by promotion from among persons holding positions in the executive branch of the state civil service, or the legislative branch of state civil service, and classified positions on the staff of the legislative auditor, Minnesota state retirement system and teachers retirement association and, subject to those exceptions as the commissioner may provide, from the lower class and in accordance with section 43.18 and rules. Except as provided in clause (2), promotions shall be based upon merit and fitness, to be ascertained by competitive examinations in which the employee's efficiency and job-related conduct shall constitute a factor. For positions defined by rule as "non-managerial" seniority may also constitute a factor.

(2) The commissioner may authorize the appointing authority of any state agency to promote any employee in that agency to a higher class provided his position has been reallocated as the result of gradual changes in the job which have occurred over a period of time and he has performed satisfactorily in the position.

(3) On or before January 1, 1981, the commissioner shall submit a report to the legislative commission on employee relations recommending methods of improving the state's efforts to insure equal employment opportunity pursuant to section 43.15. The report shall include recommendations with respect to both hiring and promotions along with an analysis of the effects of seniority requirements on promotional practices.

Subd. 2. **Increase, when a promotion.** For the purpose of this section, the commissioner shall determine, by personnel rule, what shall constitute a promotion.

Subd. 3. **Restoration to position after dismissal.** Any promotional appointee who is either dismissed during the probationary period from the position to which he has been promoted for cause other than misconduct or delinquency on his part or who does not attain permanent civil service status in the class to which he has been promoted in accord with section 43.21 at the conclusion of the probationary period, shall be restored to a position in the class and agency from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified civil service from competing for places upon registers of persons eligible for original appointments.

Subd. 4. **Managerial or professional position, filling.** Notwithstanding any provision in this chapter, to the contrary, every vacancy in a managerial or professional position shall be open to any state employee in the executive branch or legislative branch and any classified employee of the legislative auditor, Minnesota state retirement system and teachers retirement association qualifying through examination and in accordance with the provisions of section 43.18, subdivision 1. The commissioner may require the filling of this type of vacancy by any qualified person, but in no case shall the filling of such a vacancy be limited to only the employees of a department or agency. For professional positions seniority shall also be one of the factors in an appointment in the manner as provided by personnel rule.

Subd. 5. **Promotions; work station location.** No employee of any agency in the executive branch shall be deemed ineligible for promotion to a position solely because of the location of the employee's current work station or the location of the work station to which the employee would be assigned if promoted to that position.

History: 1939 c 441 s 19; 1947 c 604 s 3; 1973 c 507 s 26; 1974 c 364 s 13; 1975 c 431 s 16; 1977 c 383 s 1; 1978 c 734 s 7; 1979 c 332 art 1 s 43,114; 1980 c 617 s 12,43 (254-67)

43.20 NON-COMPETITIVE POSITIONS.

Subdivision 1. Positions in the classified service may be filled without competition only as provided in this section.

Subd. 2. When the commissioner determines there are urgent reasons for filling a vacancy in any position in the classified service and the commissioner is unable to certify from a complete and appropriate eligible list for the vacancy, the commissioner may, upon the request of the appointing authority, issue a provisional permit or certify a suitable person to fill such vacancy provisionally only until a selection and appointment can be made after competitive examination. When requesting a provisional appointment, an appointing authority shall certify to the commissioner that he has determined that all persons on an incomplete appropriate list are unsuitable or unavailable for appointment. Before granting a provisional permit to a person, the commissioner shall review the qualifications of the prospective employee and shall make a preliminary determination that the person would be qualified for the position on a permanent basis or is qualified in all respects except for completion of a licensure requirement. No person shall receive more than one provisional appointment nor serve more than six months in any 12 month period as a provisional appointee, except, where in individual cases the commissioner grants an exception for the good of the service. If the position is opened for competitive examination after the appointment of a provisional employee, no person shall be denied certification to an eligible list for the position solely because he did not serve in the position

in a provisional capacity. If a provisional appointment is made after a determination of the unavailability or unsuitability of all persons on the incomplete list, the commissioner may at the request of the appointing authority designate the provisional appointee as a probationary appointee if the employee has performed satisfactorily for at least 60 days in the provisional capacity and has received a passing score on an appropriate examination. A person receiving a probationary appointment after serving as a provisional appointee, shall be required to complete the same probationary period as other appointees to similar permanent positions.

Subd. 3. In case of an emergency, an appointment may be made without regard to the provisions of this chapter, but in no case shall it continue longer than 30 working days. This provision shall apply to both persons and positions. No person shall be employed more than 30 working days on emergency appointments within any 12 month period by the same appointing authority.

Subd. 4. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional, or expert character are required, and upon satisfactory evidence that for specified reasons competition in this 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 these qualities, the commissioner may suspend the requirements of competition in this case, but no suspension shall be general in its application to the position.

Subd. 5. Where the services to be rendered by an appointee are for a temporary period, the commissioner shall, when practicable, certify from an eligible list for the temporary service any person he deems qualified; the acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary period in case of subsequent appointment to a permanent position. Where certification from an eligible list is impractical, the commissioner may authorize the temporary appointment of an individual designated by the appointing authority. The commissioner shall refer to the appointing authority the names of employees on layoff from the legislature who are available for appointment to temporary positions with duties and responsibilities comparable to work performed in the legislature. The secretary of the senate and the chief clerk of the house shall supply the names of legislative employees on layoff status who are available for appointment. No temporary appointment shall exceed six months except to fill a vacancy created by an approved leave of absence not to exceed one year or where the commissioner grants an extension of temporary appointment to the maximum of one year in the best interests of the state. No person shall receive successive temporary appointments, nor be employed in temporary appointments for more than 12 months within any 24 month period.

Subd. 6. Notwithstanding any law to the contrary no agency of the state acting pursuant to any express or implied authority to enter into contracts for services shall enter into a contract with a private entity whereby the agency becomes entitled to receive the services of persons who, were they members of the classified service, would occupy positions assigned to schedule C, except as hereinafter provided. Upon the request of an agency requiring the services of such persons, the commissioner shall make a temporary appointment pursuant to subdivision 5. In the event that the eligible list does not contain the names of persons able to perform the requested services the commissioner shall utilize the free employment offices of the department of economic security to find persons available for such temporary appointments. In the event that the commissioner determines by written opinion that the agency requiring the services will be unable to obtain qualified persons within a reasonable period of time from the department of economic security, the agency may enter into a contract with a private entity as described above.

Subd. 7. The commissioner shall establish test procedures for employment of persons whose handicaps are of such a severe nature that they are unable to demonstrate their abilities under the open competitive examination process. The procedures need not be adopted as rules but they must be consistent with other applicable laws, rules and duly adopted plans of the state relating to affirmative action. The test procedures shall consist of a 700 hour on-the-job trial work experience which will be in lieu of a competitive examination and for which the employee would be paid or unpaid at the employee's option. This work experience shall be limited to candidates who are mentally retarded, have severe hearing or visual impairments, are confined to wheelchairs, or have other impairments that comprise serious employment handicaps, and have been referred by a vocational rehabilitation, veterans administration, or services to the blind counselor. The commissioner may authorize an appointment to the classified service of an individual who has demonstrated the ability to perform the duties of a position through successful completion of the 700 hour work experience appointment.

Subd. 8. Where the position to be filled is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level, the commissioner may authorize the administration of a basic qualifying selection process designed to ascertain which candidates could perform the tasks of the job in a satisfactory manner. Any candidate found so qualified may be certified and appointed to such a position.

History: 1939 c 441 s 20; 1951 c 685 s 2; 1955 c 654 s 1; 1957 c 447 s 1; 1959 c 5 s 1; 1973 c 254 s 3; 1974 c 364 s 14; 1974 c 511 s 14; 1975 c 381 s 9; 1977 c 430 s 25 subd 1; 1978 c 630 s 1; 1978 c 734 s 8-11; 1979 c 332 art 1 s 44,45,114; 1980 c 67 s 43 (254-68)

43.21 PROBATIONARY PERIOD.

Except as in this chapter otherwise provided, all original appointments and promotions within the classified civil service, shall be for a probationary period the duration of which is determined by personnel rule for each class, or group of classes to be not less than 30 days and not more than two years but dismissals or demotions may be made at any time during such period, subject to the provisions of section 43.19, subdivision 3. No employee transferred or promoted from one position in the classified civil service to another position in the classified civil service shall be dismissed, except for just cause, demoted or transferred without his consent until he shall have served a trial period of at least 15 days in his new position. At the end of the probationary period the appointing officer shall notify the commissioner, in writing, whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice or in the absence of notice to the commissioner, the employee shall be deemed to have a permanent classified civil service status. Work performance evaluation shall be provided to a probationary employee during the probationary period in a manner and frequency in accordance with rules established by the commissioner.

History: 1939 c 441 s 21; 1947 c 489 s 1; 1949 c 490 s 1; 1965 c 298 s 1; 1969 c 144 s 6; 1973 c 507 s 27; 1975 c 381 s 10; 1975 c 431 s 17; 1979 c 332 art 1 s 114; 1980 c 617 s 43 (254-69)

43.212 DEPARTMENTAL PERSONNEL OFFICERS.

Each department or agency shall establish a position of departmental personnel officer either on a full or part time basis. The departmental personnel officer shall be accountable to his department head for employee counseling, labor relations, performance appraisal, training, manpower planning, compensa-

tion, conditions of employment and such other personnel functions as may be prescribed by law, by personnel rule, or by the department head.

Except when otherwise prescribed by the department head in a specific instance, the personnel officer shall be assumed to be the authority accountable to the department head over any other officer or employee in the department regarding personnel functions.

History: 1973 c 507 s 30

43.22 TRANSFERS; LEAVES OF ABSENCE; REINSTATEMENT.

Subdivision 1. **Transfers.** Transfers in the classified service may be made from a position in one grade and class to a position in another grade and class when the duties and compensation are similar and when such action is specifically approved by the commissioner of employee relations.

Subd. 2. **Leaves of absence.** Any person holding a permanent position in the classified service of this state may be granted a leave of absence on the grounds of sickness, disability, or other good and sufficient reason; provided, that no leave, except military leave, sick or disability leave, leave to accept an elected public office as provided by section 43.28, leave to accept an appointive position in the state unclassified service, leave to accept employment with a civil defense survival plan project to which the state is a party, and leave to attend an accredited college or university under a training program authorized by the state, shall exceed one year. However, a leave of absence to attend an accredited college or university may be extended, by order of the commissioner, upon application duly made and approved by the appointing authority, for such period of time necessary to complete a particular course of study, but not to exceed one year.

Subd. 3. **Leaves, when granted.** Leave of absence may be granted to an employee in the classified civil service to enable such person to take an appointive position in the state unclassified civil service. Persons having accepted or accepting appointive positions in the unclassified civil service shall, at any time within 60 calendar days of the termination of the appointment, upon application to the commissioner of employee relations, be restored to a position with the same status and classification as the position the employee held immediately prior to appointment to the unclassified civil service.

Subd. 4. **Reinstatement, when.** Any person who has held a position by permanent appointment in the classified service under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part or who has been granted a leave of absence under subdivision 2, may be reinstated within one year from the date of the separation or within one year from the expiration of an approved leave of absence, to a position in the same or similar grade or class in the classified service, but such action shall be subject to the approval of the commissioner of employee relations.

Subd. 5. [Repealed, 1957 c 141 s 1]

Subd. 6. [Repealed, 1957 c 141 s 1]

Subd. 7. [Repealed, 1967 c 193 s 7]

Subd. 8. [Repealed, 1974 c 364 s 23]

History: 1939 c 441 s 22; 1941 c 533 s 4; 1943 c 640 s 2,3; 1947 c 604 s 4; 1957 c 296 s 1,2; 1959 c 628 s 1; 1961 c 560 s 5; 1961 c 687 s 1; 1969 c 217 s 1; 1973 c 507 s 45; 1975 c 381 s 11,12; 1980 c 617 s 47 (254-70)

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.221 [Repealed, Ex1971 c 48 s 20]

43.222 TRANSFERS; SICK LEAVE AND ANNUAL LEAVE BENEFITS; UNCLASSIFIED EMPLOYEES.

An employee in the unclassified service of the state, who is subsequently employed in the classified service within a period of one year following the last day of service in the unclassified service, shall have his accumulated sick leave posted to his credit in the records of the employing department. The manner in which the sick leave is accumulated shall be in accordance with the personnel commissioner's rules as they apply to the classified service.

An employee in the unclassified service of the state, who is subsequently employed in the classified service without any interruption in state service, shall have his accumulated annual leave posted to his credit in the records of the employing department. The manner in which the annual leave is accumulated shall be in accordance with the personnel commissioner's rules as they apply to the classified service.

History: 1967 c 805 s 2; 1974 c 364 s 15

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.223 PAY TO EMPLOYEE ANNUAL LEAVE ALLOWANCE.

Any employee of the state who is separated from the state service by layoff, resignation, death or otherwise, and any employee who is transferred or who accepts employment under the jurisdiction of a new appointing authority of the state, shall be entitled upon such separation, transfer, or acceptance of such new employment, to pay for any unused portion of his annual leave allowance.

History: 1945 s 492 s 1

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.224 ANNUAL LEAVE ALLOWANCES.

No employees in the unclassified service shall be paid for unused portions of annual leave allowances provided for by section 43.223, for any greater period of time than is permitted employees in the classified service. No elected state employee, with the exception of elected employees of the legislature, shall be paid for unused annual leave allowances or a severance pay allowance based upon unused sick leave pursuant to section 43.12, subdivision 17, upon retirement or termination of service for any reason whatsoever.

History: 1965 c 863 s 9; 1975 c 381 s 13; 1976 c 91 s 1; 1979 c 50 s 6

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.225 [Repealed, 1957 c 141 s 1]

43.226 [Repealed, 1957 c 141 s 1]

43.227 TIME OFF IN EMERGENCIES.

An appointing authority, after consultation with the commissioner of public safety, may excuse state employees from duty with full pay in the event of a natural or man made emergency, if continued operation would involve a threat to the health or safety of individuals. Absence with pay shall not exceed 16 working hours at any one time unless the commissioner authorizes a longer duration.

History: 1975 c 381 s 14; 1979 c 332 art 1 s 46

43.23 SENIORITY RIGHTS; POSITIONS ABOLISHED; PREFERENCE.

Subdivision 1. **Right of seniority.** When one or more employees in the classified civil service are laid off because of a shortage of funds or curtailment of service or for any other reason beyond their control, the order of layoff shall be determined according to personnel rules which shall be based on seniority, and the names of such employees shall be placed at the head of the appropriate registers.

Subd. 2. Notice of layoff. In every case of layoff of a permanent officer or employee, the appointing authority shall, at least seven days before the effective date thereof, give written notice to the employee and shall certify to the commissioner the reasons therefor. In any case where an appointing authority fails to certify before the effective date thereof, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions concerning dismissals, as provided in this chapter.

Subd. 3. Positions abolished. When positions in the classified service are abolished by statute or by administrative action, the names of the incumbents of these positions, if they are members of the classified service, shall be placed at the head of the appropriate register, according to seniority.

Subd. 4. Preferences. Persons who have been separated from the classified service because of layoff or the abolition of positions shall be given preference over all other eligibles in filling vacancies in the same or similar positions within the department in which they were employed immediately prior to their separation from the service, and the commissioner shall certify for each vacancy only the former officer or employee whose name stands first on the appropriate eligible register.

Subd. 5. Military service. In determining seniority rights of any state employee who held a position in the classified service and became separated therefrom to enter military service, and who was honorably discharged therefrom and reentered state service within six months thereafter, full credit shall be given for all state service prior to such military service.

History: 1939 c 441 s 23; 1949 c 611 s 1; 1973 c 507 s 28; 1975 c 431 s 18,19 (254-71)

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.24 REMOVAL.

Subdivision 1. Written statement. No permanent employee in the classified service, under the provisions of this chapter or the rules made pursuant thereto, shall be removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position, except for just cause. In case of any disciplinary action, as enumerated in this section, the employee shall, before the action is taken, be furnished with a statement, in writing, setting forth the reasons for the disciplinary action, be permitted five days time to reply thereto, in writing, or upon his request, to appear personally and reply to the head of the department. A copy of the statement and the employee's reply, if any, shall be filed with the commissioner prior to the effective date thereof. Any permanent employee in the classified service who is removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position, shall be notified no later than the effective date of the action of his right to appeal the action to the chief hearing examiner of the state office of administrative hearings who shall assign a hearing examiner to hear the matter.

Subd. 1a. Just cause. For the purposes of this section, "just cause" includes, but is not limited to, consistent failure to perform assigned duties, substandard performance, insubordination, and serious violation of written policies and procedures, provided the policies and procedures are applied in a uniform, non-discriminatory manner. "Just cause" excludes the religious beliefs, political beliefs, race, sex, disability status and age of the employee, subject however to mandatory retirement ages specified by law and excludes discharge for mere whim or caprice.

Subd. 2. Appeal to board; public hearings, findings, hearing conference. Any permanent employee who is removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position and who has not elected to

proceed pursuant to a grievance procedure, if the procedure is available, pursuant to sections 179.61 to 179.77, may appeal to the chief hearing examiner of the state office of administrative hearings who shall assign a hearing examiner to hear the matter within 30 days after the effective date of the removal, discharge, suspension or reduction in pay or position. In no event may an employee avail himself of both the procedure under this section and the grievance procedure under sections 179.61 to 179.77. Upon appeal, both the appealing employee and the appointing authority or their representatives shall meet with the hearing officer, at a place and on a date as set by him for the purpose of determining the facts at issue. Prior to the hearing conference, both parties may stipulate on mutually agreed matters relevant to the dismissal or other disciplinary action referred to in this subdivision. If the hearing officer is successful in reaching a mutually agreed settlement between both parties, such agreement shall be certified to the chief hearing examiner, with copies furnished to both parties, and the agreement, if approved by the chief hearing examiner, shall become binding on both parties. The hearing conference shall be conducted in such manner and follow such procedures as prescribed by the contested case provisions of chapter 15. The issues and facts on which agreement has not been reached will be decided during the hearing at which hearing technical rules of evidence shall not apply. If the hearing examiner finds that the action complained of was not taken by the appointing authority for just cause, the employee shall be reinstated to his position, or an equal position in another department or division, without loss of pay. If the hearing examiner finds that there exist sufficient grounds for institution of dismissal but extenuating circumstances are brought out in testimony and evidence, he may in his discretion reinstate the employee, with full, partial, or no pay, or it may modify the appointing authority's action by substituting a lesser disciplinary action. The hearing officer shall recommend to the chief hearing examiner an appropriate disposition of the case. If no exceptions are made, the hearing officer's recommended disposition shall, at the option of the chief hearing examiner, become final. If exceptions are taken, the chief hearing examiner, upon a review of the record, may accept the officer's recommendations with or without additional oral or written evidence from the parties, may remand the case to the officer for further hearing, adopt the hearing officer's report with any changes warranted by the record, or issue its own report of findings and orders. In those cases in which the chief hearing examiner finds just cause for dismissal, the findings and recommendations of the chief hearing examiner shall be submitted to and considered by the appointing authority, who may, not later than 30 days after receipt of the findings and recommendations, reinstate the employee with or without pay for the period of suspension, or otherwise modify his original decision of suspension, demotion, or discharge. When any permanent employee is dismissed and not reinstated after appeal, the chief hearing examiner may direct that his name be placed on an appropriate reemployment list, for employment in any similar position other than the one from which he has been removed, which direction shall be enforced by the commissioner. If the chief hearing examiner supports the agency decision, or if the agency refuses to accept the chief hearing examiner's recommendations, the employee may appeal as though from a contested case decision pursuant to chapter 15.

Subd. 3. Request for written statement. When any such permanent employee shall be suspended without pay, he shall, within 30 days time after being notified of such disciplinary action, be furnished with a statement in writing specifically setting forth the reasons for the disciplinary action, and a copy of such statement shall then also be filed with the commissioner.

History: 1939 c 441 s 24; 1943 c 607 s 1; 1947 c 604 s 5; 1955 c 431 s 1; 1955 c 774 s 5,6; 1965 c 497 s 1; 1973 c 507 s 29; 1973 c 653 s 21; 1974 c 406 s 8; 1978 c 734 s 12; 1979 c 332 art 1 s 47; 1980 c 614 s 70 (254-72)

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.245 PERFORMANCE APPRAISAL SYSTEM.

The commissioner shall design and implement an employee performance appraisal system for the classified and unclassified services. This system shall be based on uniform position description and results oriented performance standards formats. The commissioner, in consultation with the departments, shall develop criteria and content as necessary so long as the system is uniform for all departments. The commissioner shall establish and enforce rules with respect to the utilization of the results of this performance appraisal system in all decisions relating to the status of employees. Each employee in the classified and unclassified service in the executive branch shall be evaluated and counseled at least once a year on his work performance. Individual pay increases for all state employees not represented by an exclusive representative certified pursuant to chapter 179 shall be based on the evaluation and other factors the commissioner includes, and the legislature approves, in the plan developed pursuant to section 43.113. Collective bargaining agreements entered into pursuant to chapter 179 may, and are encouraged to, provide for pay increases based on employee performance.

History: 1973 c 507 s 32; 1979 c 332 art 1 s 114; 1980 c 617 s 13,43

43.25 COMMISSIONER NOTIFIED OF ANY DISCHARGE OR EMPLOYMENT.

Each appointing officer shall report to the commissioner forthwith, in writing, upon any appointment or employment in the service, the name of the appointee, or employee, 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, upon the date of the official action in, or knowledge of, any separation of a person from the service, or any promotion, reduction, suspension, transfer, reinstatement, or other change therein, the efficiency of his subordinates and employees, and other information, in such manner as may be prescribed by the commissioner.

History: 1939 c 441 s 25; 1974 c 364 s 16 (254-73)

43.26 PAYROLLS, CERTIFICATION.

Subdivision 1. Neither the commissioner of finance 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, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the classified or unclassified service of the state, unless a payroll register for such salary or compensation containing the name of every person to be paid shall bear the certificate of the commissioner of employee relations that the persons named in such payroll register have been appointed, employed, reinstated, or promoted and are performing service as required by law and the rules established thereunder and that the salary or compensation is within the salary or wage schedule fixed pursuant to law. This provision shall not apply to positions defined in section 43.09, subdivision 2, clauses (4), (6), (7), (8), (10), and (11). Persons to whom this subdivision does not apply may be paid on the state's payroll system and the appointing authority or fiscal officer submitting their payroll register shall be responsible for the accuracy and legality of the payments.

Subd. 2. **Salaries paid contrary to provisions recovered from appointing officer.** Any sum wilfully paid contrary to the provisions of this section may be recovered from any officer making the 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 same, or from the sureties on the official bond of any officer, in an action in the district court of any county within the state, maintained by the commissioner of employee relations. All moneys recovered in any action brought under this section when collected shall be paid into the state treasury.

Subd. 3. Action against appointing officers; not reimbursed for sums paid. Any person employed or appointed contrary to the provisions of this chapter and the rules hereunder, whose payroll or account is refused certification, shall have action against the appointing officer employing or appointing or attempting to employ or appoint him for the amount due by reason of the employment or purported employment and the costs of the action. No appointing authority, during the time of his official service, or thereafter, shall be reimbursed by the state for any sum so paid or recovered in any such action.

Subd. 4. Commissioner to make special rules. The commissioner shall have power to make special rules and regulations for matters requiring conformance to federal law or regulations.

History: 1939 c 441 s 26; 1941 c 533 s 5; 1973 c 507 s 45; 1974 c 364 s 17,18; 1980 c 617 s 47 (254-74)

43.27 COMPLIANCE WITH LAW.

All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this chapter and the rules prescribed hereunder. Any wilful violation of this chapter by officers, officials, or employees of the state shall be deemed a misdemeanor and punished accordingly. Conviction of same shall render the public office or position held by such person vacant.

History: 1939 c 441 s 27 (254-75)

43.28 POLITICAL ACTIVITIES PROHIBITED.

Subdivision 1. Rights and obligations of public employees. No officer, agent, clerk, or employee of this state or any political subdivision thereof shall, directly or indirectly, during his hours of employment solicit or receive funds, or at any time use his authority or official influence to compel any officer or employee in the classified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity. Any person who violates any provision of this section shall be guilty of a misdemeanor, and shall be punished accordingly, and if any officer or employee in the classified service is found guilty of violating any provision of this section, he is automatically separated from the service. No political subdivision may impose or enforce any additional limitations on the political activities of its employees.

Subd. 2. Leaves of absence for state employees. Except as herein provided any officer or employee in the state classified service shall:

(1) Take leave of absence upon assuming an elected federal or state public office, including elected state legislative office;

(2) Take leave of absence upon assuming any elected public office other than enumerated in clause (1), if, in the opinion of the commissioner of employee relations, the holding of such office conflicts with his regular state employment;

(3) Upon his request, be granted leave of absence upon becoming a candidate, or during the course of such candidacy, for any elected public office;

(4) Take leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office if, in the opinion of the commissioner of employee relations, such candidacy conflicts with his regular state employment.

All requests for opinions of the commissioner of employee relations, and opinions from the commissioner under the provisions of clauses (2) and (4) shall be in written form and shall be delivered by certified mail.

The commissioner of employee relations shall issue an opinion under the provisions of clauses (2) and (4) within seven calendar days of receipt of the request.

History: 1939 c 441 s 29; 1951 c 655 s 1; Ex1967 c 39 s 1; 1973 c 45 s 1; 1973 c 507 s 45; 1978 c 541 s 1; 1978 c 674 s 60; 1980 c 617 s 47 (254-77)

43.29 ACCOMMODATIONS FURNISHED EXAMINERS.

The officers having control of public buildings in political subdivisions of the state and school districts shall, upon request of the commissioner of employee relations, furnish without charge convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The commissioner may request state or local officers or employees to aid in carrying out the provisions of this chapter and it shall be the duty of such officers and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the commissioner.

History: 1939 c 441 s 30; 1963 c 754 s 3; 1973 c 507 s 45; 1980 c 617 s 47 (254-78)

43.30 VETERANS PREFERENCE.

The provisions of this section shall govern the granting of veterans' preference for the state civil service.

A veterans' preference shall be available pursuant to this section to every person who enters the military service of this country prior to December 31, 1976, and is separated under honorable conditions from any branch of the armed forces of the United States; (a) after having served on active duty for 181 consecutive days or (b) by reason of disability incurred while serving on active duty, and who is a citizen of the United States. A veteran thus preferred shall not be disqualified from holding any position in the classified service on account of his age or by reason of any physical disability provided such age or physical disability does not render him incompetent to perform the duties of the position.

Recognizing that training and experience in the services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily discovered by examination; there shall be added to the examination rating of a disabled veteran, if he so elects, a credit of ten points if the veteran obtained a passing grade without the addition of the credit points; and if the disabled veteran is able to perform the duties of the position sought with reasonable efficiency, his name shall be placed on the list of eligibles with the names of other eligible persons. The name of a veteran with such augmented rating shall be entered ahead of a nonveteran when their ratings are the same.

There shall be added to the examination rating of a nondisabled veteran, if he so elects, a credit of five points if the veteran obtained a passing grade without the addition of the credit points. The name of a veteran with such augmented rating shall be entered ahead of a nonveteran when their ratings are the same.

A governmental agency, when notifying an applicant that he has passed an examination, shall notify the veteran of his specific score and shall also notify

the applicant that he may elect to use a veteran's preference to augment his passing rating.

A veteran's preference under this section may only be used in the state civil service and political subdivisions of the state in the securing of positions to be filled by open competitive examinations and may not be used for the filling of promotional positions. An open competitive examination is an examination open to current employees and nonemployees of the state or political subdivision. A veteran's preference under this section may not be used by any veteran who is receiving or who is eligible to receive a monthly veteran's pension benefit based exclusively on length of military service.

Notwithstanding the foregoing restrictions on use, in any governmental agency giving an examination, where an applicant for a promotional position is a disabled veteran who has passed the promotional examination for his first promotion after entering that position, he may elect to have a credit of five points added to that examination rating. The decision to make such election may be made either before or after the examination. This promotional preference may only be successfully used one time and only in the securing of the first promotional position after securing public employment.

A preference given by this section is hereby extended to the surviving spouses of deceased veterans and to the spouse of a disabled veteran, who because of the disability is unable to qualify.

The fact that an applicant has claimed a veterans preference shall not be made known to the examiners. The preference credit shall be added to the examination rating, and the records shall show the examination rating and the preference credit.

A disabled veteran is one who has a compensable service connected disability as adjudicated by the United States Veterans Administration, or by the retirement boards of the several branches of the armed forces, and which disability is existing at the time preference is claimed. The commissioner may require candidates claiming preference as disabled veterans to submit documentary evidence in support of their claim and may anticipate certification by the veterans administration where necessary to avoid delays in establishing an eligible list. For purposes of the preference to be used by a disabled veteran in securing a promotional position, the term "disabled veteran" means a person who, at the time of election to use his promotional preference, is entitled to disability compensation under laws administered by the veterans administration for a permanent service connected disability rated at 50 percent or more.

In the event of the rejection by the appointing officer of the person so preferred when certified to fill a vacancy or a new position, the appointing officer shall forthwith file in writing with the commissioner the reasons for such rejection and shall furnish to the rejected veteran a copy thereof.

History: 1939 c 441 s 31; 1943 c 157 s 1; 1947 c 395 s 1; 1949 c 222 s 1; 1953 c 699 s 2; Ex1967 c 4 s 1; 1974 c 364 s 19; 1975 c 45 s 2; 1975 c 381 s 15; 1977 c 40 s 1 (254-79)

43.31 SERVICES AVAILABLE TO POLITICAL SUBDIVISIONS.

The services and facilities of the state personnel department and its staff shall be available upon request, subject to rules prescribed therefor by the commissioner, to political subdivisions of the state. In making such service and facilities available, it shall be understood that requirements for the enforcement and administration of the provisions of this chapter shall be given precedence and that the political subdivisions shall reimburse the state for the reasonable cost of such services and facilities.

The commissioner may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The commissioner may also join or subscribe to any association or service having as its purpose the interchange of information relating to the technique of personnel administration.

History: 1939 c 441 s 32; 1959 c 157 s 3; 1974 c 364 s 20; 1977 c 455 s 77 (254-80)

43.32 TRAINING PROGRAM.

Subdivision 1. **Purpose; participation by employees.** The commissioner shall develop and have the power to enforce plans for and cooperate with appointing authorities and personnel officers in the conduct of employee training programs. Provision may be made in the rules adopted to permit employees in the classified service to secure leaves of absence for the purpose of enrolling in courses of training for government service; and provision also may be made in these rules to permit qualified students to serve as internes or apprentices for a period not greater than two years in the several departments and agencies concerned except for psychiatric residencies and public health physician residencies where the period shall not exceed five years.

Subd. 2. **Specialized training.** The commissioner shall by personnel rule prescribe: (a) conditions under which employees may be assigned to take specialized training; and (b) conditions under which employees may be reimbursed for tuition fees and other necessary expenses in connection with specialized training authorized by the appointing authority to meet the needs of the service. The commissioner shall further prescribe the conditions under which an employee may be required to reimburse the state for the costs of such training in the event he fails to remain in state service for a reasonable time after receiving the training. The commissioner shall report biennially to each house of the legislature in session concerning activities under this subdivision.

Subd. 3. **Departmental responsibility.** The head of each department shall be responsible for planning, budgeting, conducting and evaluating training programs within the limits of the personnel rules. He shall foster employees' self-development by creating a work environment in which such development is encouraged, and by making opportunities for training and self-study reasonably available and giving recognition to department directed or self-initiated improvement in qualifications and performance.

Subd. 4. **Human resources planning.** The commissioner, in conjunction with state agency heads, shall analyze and assess current and future human resource requirements.

The commissioner shall coordinate agency training activities and other personnel actions throughout the state civil service in order to meet the current and projected human resource requirements of the state.

Subd. 5. **Training authority.** The commissioner is authorized to enter into, as an agent of the state of Minnesota, contracts, compacts or cooperative agreements involving other governments. He has authority and responsibility for coordinating the training programs throughout the state service and providing training assistance to local governments under approved training plans when so requested. Grants made available by federal legislation, or fees paid by political subdivisions of the state for training purposes are to supplement appropriations to the department for carrying out these aims and are hereby appropriated annually therefor.

Subd. 6. **Funds.** The commissioner may apply for, receive, and accept federal funds or other funds made available by the United States of America or any agency thereof or other source for any of the purposes enumerated in this sec-

tion and may disburse such moneys in accordance with the rules and regulations which the donor of such funds may prescribe. Moneys so received shall be deposited in the state treasury and are hereby appropriated therefrom annually to the department of employee relations for the purposes for which the moneys are received.

Subd. 7. Programs of appointing authority; reports. In cooperation with all departments, the commissioner shall initiate training in specialties common to more than one department. He shall review all training programs in the various departments in terms of methodology, but not in terms of technical contents; in matters of methodology, each department is required to abide by the commissioner's decision.

Subd. 8. Minimum training standards. The commissioner shall in consultation with the commissioner of finance establish minimum training standards which shall be binding on all departments and agencies.

Subd. 9. Management training. The commissioner shall identify the minimum elements necessary to support a coordinated management system and shall design and operate a management training program accordingly. No management training shall be conducted by any department unless specifically approved by the commissioner.

Subd. 10. Supervisory training. The commissioner shall require departments to conduct programs in supervisory training. No state employee shall be promoted permanently into a supervisory position unless he has successfully completed supervisory training for the position as approved by the commissioner.

Subd. 11. Review of training plans. The head of each department shall be responsible, with the advice and counsel of the commissioner, for planning, budgeting and conducting training programs within the scope of the overall training plan. He shall submit his training plans and budgets for each year of the biennium to the commissioner for review and comment prior to the implementation of any program, but in any case no later than six weeks after the budget appropriations are approved.

For purposes of training, the commissioner may accept funds from any source and may be reimbursed by the various departments for reasonable program cost. Moneys transferred to the commissioner pursuant to this subdivision are appropriated to the commissioner to perform training functions as provided herein.

Subd. 12. Personnel rules on training. The commissioner shall issue such personnel rules as he deems necessary to carry out the provisions of this section.

History: 1939 c 441 s 33; 1955 c 533 s 1; 1957 c 758 s 1; 1969 c 584 s 1; 1971 c 936 s 1; 1973 c 507 s 31; 1978 c 734 s 13; 1979 c 332 art 1 s 48; 1980 c 617 s 47 (254-81)

43.321 GRIEVANCE PROCEDURE.

The commissioner shall promulgate by rule procedures relating to grievances of any state officer or employee in the executive branch and provide the circumstances under which the grievance procedure is available, except that no state employee may avail himself of more than one grievance procedure on any one complaint or use the procedure set forth in the rule if he is a member of a bargaining unit that has a collective bargaining agreement entered into pursuant to chapter 179 which provides for methods and procedures to resolve that type of grievance.

History: 1973 c 507 s 36; 1979 c 332 art 1 s 114; 1980 c 617 s 14,43

43.322 TRANSFER OF BENEFITS.

Notwithstanding any other law to the contrary, the commissioner shall provide by personnel rule for the transfer of accumulated sick leave and vacation leave and other rights and benefits when an employee transfers from one department of state government to another. Such personnel rule shall enhance mobility of state employees among and between the various departments.

History: 1973 c 507 s 37

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.323 PERSONNEL RULE; PROCEDURE.

Subdivision 1. When so authorized by law, the commissioner of employee relations shall issue personnel rules or revisions in conformance with the requirements of chapter 15.

A provision of an agreement entered into by the commissioner pursuant to section 179.74, subdivision 5 shall supersede the provisions of any rule or portion thereof which is inconsistent therewith.

Subd. 2. A personnel rule having been issued under the provisions of subdivision 1 shall have the effect of law and shall be binding on all state departments and agencies.

Subd. 3. The commissioner of employee relations shall identify those rules he has promulgated pursuant to chapter 15 which are in conflict with the provisions of a collective bargaining agreement negotiated in accordance with sections 179.61 to 179.77 and notwithstanding the provisions of chapter 15, shall suspend those rules and promulgate emergency rules to be effective for a period not exceeding 180 days during which time the commissioner shall repeal, suspend or modify the temporarily suspended rules in accordance with chapter 15.

History: 1973 c 507 s 38; 1976 c 252 s 1; 1977 c 452 s 5; 1980 c 614 s 71; 1980 c 617 s 47

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.324 COMPENSATION PLAN.

Subdivision 1. On or before December 1 of each even numbered year, the commissioner of employee relations shall after consultation with the commissioner of finance submit to the governor, or if a governor has been elected in that year to the governor-elect, his recommendations concerning compensation to be paid all employees in the classified and unclassified civil service in the executive branch with the exception of salaries for positions exempted from the commissioner's salary setting authority in section 43.064. The recommendations so submitted shall be in bill form, drafted in conformity with the rules of the senate and house of representatives and may contain proposals concerning salaries, paid holidays, health and life insurance benefits, and other items of compensation for all employees in the executive branch. The recommendations shall also include any agreements reached through collective bargaining, or ordered by arbitrators, or which may be the results of any negotiations conducted under a public employment labor relations law applicable to state employees to the extent that such agreements pertain to issues or items included in the commissioner's compensation recommendations described in this subdivision.

Subd. 2. The recommendation of the commissioner as required by subdivision 1 shall include the recommendations concerning salaries in the unclassified service or any modifications thereof which he has made.

Subd. 3. As part of his budget message to the opening of a regular session of the legislature in January of each odd numbered year, the governor shall also transmit for legislative consideration the commissioner's proposals as recommended by the commissioner or as modified by the governor, but the governor

shall not modify any recommendations concerning positions in the legislative or judicial branches, or any recommendations reached through collective bargaining, or ordered by arbitrators, or which may be the result of any negotiations conducted under a public employment labor relations law applicable to state employees.

History: 1973 c 507 s 40; 1974 c 511 s 12; 1980 c 614 s 72; 1980 c 617 s 47

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.326 IDENTIFICATION OF POSITIONS.

Subdivision 1. **Managerial and professional positions.** By personnel rule, the commissioner shall identify individual positions, or groups of positions in the classified and unclassified civil service in the executive branch as being "managerial" or "non-managerial" and as "professional" or "non-professional" in a manner that clearly identifies for each employee of the state the category into which his position belongs.

Subd. 2. **Supervisory positions.** By personnel rule, the commissioner shall identify individual positions, or groups of positions in the classified and unclassified civil service in the executive branch as being "supervisory" or "non-supervisory" in a manner that clearly identifies for each employee of the state the category into which his position belongs. The determination of a position as "supervisory" by the commissioner under the provisions of this section shall not be construed to be a definition of "supervisory" under the provisions of any public employees relation act.

History: 1973 c 507 s 42

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.327 TRAVEL AND RELOCATION EXPENSES.

Subdivision 1. **Commissioner to make rules on relocation.** The commissioner shall make personnel rules relating to the expenses of moving state employees, their families and household goods to new stations, subsistence, realtor fees, and such other expenses as may be incident to assignment to such stations.

Subd. 2. **Commissioner to make rules on travel.** (1) The commissioner shall promulgate personnel rules relating to special expenses and travel of state employees on state business. For purposes of this subdivision, "special expense" means a necessary reimbursable expense for meals, lodging, registration, conference fees or other expenses incurred in connection with assigned official duties of a state employee and where the employee's attendance or participation will accrue primarily to the state.

(2) When unusual difficulty in recruiting qualified applicants is being encountered, the commissioner may authorize the appointing authority to pay travel expenses incurred by applicants invited for oral examinations or for employment interviews in the same manner and amounts authorized by personnel rules for state employees.

Subd. 3. **Commissioner of finance to enforce rules.** The commissioner of finance shall enforce the personnel rules concerning travel, relocation and special expenses and provide for the payment of expenses actually incurred or for payment on a daily flat rate as the personnel rules may permit. The commissioner of finance may delegate the authority to approve travel and special expenses to the appointing authority. Subsequent delegation by the appointing authority must be approved in advance by the commissioner of finance and filed with the secretary of state. The commissioner of finance shall periodically review authority that has been delegated to ensure compliance with personnel rules relating to travel and special expenses and may modify or withdraw the delegation at any time upon written notice to the appointing authority.

History: 1973 c 507 s 44; 1978 c 734 s 14,15; 1979 c 332 art 1 s 49,50

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.328 [Renumbered 471.665]

43.329 TRAVEL EXPENSES, BOARDS AND COMMISSIONS.

Notwithstanding the provisions of any other law, the members and staff of all state boards, councils, and commissions in the executive branch, established by state law or otherwise, shall only be reimbursed for travel expenses both in-state and out-of-state in accordance with the rules and regulations promulgated by the commissioner of employee relations governing the travel of state officers and employees.

History: 1973 c 720 s 78; 1974 c 364 s 21; 1980 c 617 s 47

43.33 MS 1953 [Repealed, 1957 c 141 s 1]

43.33 TRAVEL EXPENSES; ADVANCES.

Notwithstanding the provisions of any law to the contrary, the head of any state department or agency may advance, from appropriations, the estimated cost of all travel expenses to an officer or employee who is to travel on official business. The commissioner of employee relations shall prepare such rules and regulations as he may deem the public interest shall require.

History: Ex1967 c 48 s 80; 1974 c 184 s 2; 1980 c 617 s 47

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.34 [Repealed, 1973 c 507 s 47]

43.35 VIOLATIONS; PENALTIES.

Any board member, the commissioner, or examiner or any other person,

(1) who wilfully or corruptly, by himself or in cooperation with one or more persons, defeats, deceives, or obstructs any person with respect to his rights of examination or application according to this chapter, 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, certified, employed, or promoted pursuant to the provisions of these sections, or aids in so doing, or who wilfully destroys any examination questions, answers, or records thereon of any applicant for civil service within a period of one year after any examination has been completed, or

(3) who wilfully or corruptly makes or files any false representations concerning the persons examined, registered, certified, appointed, employed, or promoted, or

(4) who wilfully or corruptly furnishes any person with any special or secret information for the purpose of either improving or injuring the prospects or chances of any person 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 in connection with any examination or registration, or application or request to be examined or registered, or

(6) who wilfully or corruptly shall appoint to a position in the classified service, or dismisses, suspends, reduces in rank or pay any officer or employee from any position in the classified service otherwise than in compliance with, and in conformity to, the provisions of this chapter and the rules and regulations of the commissioner of employee relations adopted pursuant thereto, or

(7) who wilfully or corruptly refuses or neglects otherwise to comply with, or conform to, the provisions of this chapter and the rules and regulations made pursuant thereto, or violates any of these provisions, shall be deemed guilty of a misdemeanor and punished accordingly.

Any conviction under this section shall render the public officer or position held by the person so convicted vacant, and such person shall be ineligible to hold public office for a period of five years from the date of the conviction.

History: 1939 c 441 s 28; 1973 c 507 s 45; 1976 c 2 s 6; 1980 c 614 s 73; 1980 c 617 s 47 (254-76)

43.36 [Repealed, 1957 c 141 s 1]

43.37 [Repealed, 1977 c 347 s 4]

LIFE AND HEALTH BENEFITS

43.42 INSURANCE BENEFITS; INTENT.

Subdivision 1. It is the intent of sections 43.42 to 43.49 to provide certain state employees with basic life insurance, basic dental insurance, and basic health benefits coverage, including such basic health benefits coverage as the commissioner may make available from prepaid group practice plans, to be paid for by the state and to authorize an eligible state employee to enroll himself, and his dependents in such optional coverages as are made available therefor by the commissioner to be paid for by the employee through payroll deductions. Optional group coverages may include additional life insurance, auto insurance, disability insurance, dental insurance, legal insurance, homeowners insurance, and vision insurance.

Subd. 2. Any county or county municipal judge in office prior to July 1, 1977 shall be eligible for basic life insurance at state expense and additional life insurance at the judge's expense, by payroll deduction, equal to the amount of life insurance coverage carried by him on June 30, 1977 under county policies, not to exceed the maximum group life coverage available under the state employees' contract effective on July 1, 1977.

History: 1965 c 780 s 1; 1967 c 103 s 1; 1973 c 507 s 34; 1975 c 381 s 16; 1977 c 452 s 24; 1978 793 s 56

43.43 DEFINITIONS.

Subdivision 1. For the purposes of sections 43.42 to 43.49, the terms defined in this section have the meanings given them.

Subd. 2. "State employee" for the purpose of determining eligibility for the basic life insurance and basic health benefits coverage hereunder means:

(1) An employee in the classified service of the state civil service paid on a state payroll;

(2) An employee in the unclassified service of the state paid on a state payroll who is not excluded from any of the provisions of sections 43.42 to 43.49;

(3) A permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission;

(4) A judge of the supreme court or an officer or employee of such court; a judge of the district court, a judge of county court, a judge of county municipal court, a judge of probate court; a district administrator; and the employees of the offices of the district administrators of the fifth and eighth judicial districts;

(5) A salaried employee of the public employees retirement association;

(6) Full time military or civilian personnel in the unclassified service of the department of military affairs whose salary is paid from state funds;

(7) A salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(8) An employee of the regents of the University of Minnesota, who is a member of the academic staff with the rank of instructor, research fellow, or above, including a lecturer, serving on not less than 75 percent regular appointment;

(9) An employee of the regents of the University of Minnesota and a member of the civil service staff under the civil service plan, adopted by the University of Minnesota, who is employed on a monthly salaried appointment;

(10) An employee of the state university board or the state board for community colleges who is a member of the academic staff, who is employed for not less than a 75 percent time basis, and who is paid on a state salary payroll; or

(11) An employee of the state university board or the state board for community colleges who is either in the classified service or the unclassified service of the state civil service whose salary is paid from the university board of the state of Minnesota revenue fund, the university activity fund, or the community college activity fund. The required premium payment of such an employee is to be paid, however, from the fund from which the employee's salary is paid.

(12) A member of the state legislature.

(13) A seasonal employee of the waters, soils and minerals division of the state department of natural resources whose duties include the sampling, weighing or grading of iron ore, taconite, or other minerals; provided that the employee shall receive the benefits provided in sections 43.42 to 43.50, at no cost to the employee for the period in each calendar year when the employee is not working at his occupation, and the premiums therefor shall be paid from the same salary fund or account as the salary of the employee.

(14) A person employed in the state service as a pre-service trainee on a full time basis.

Subd. 3. "Hospital benefits coverage" means:

A plan that provides coverage for, or pays, or reimburses expenses for hospital services.

Subd. 4. "Medical benefits coverage" means:

A plan that provides coverage for, or pays, or reimburses expenses for medical services and medical expenses prescribed by a doctor.

Subd. 5. "Employee life insurance benefits coverage" means:

A plan that provides life insurance coverage on the lives of eligible employees. Waiver of premium disability benefit and accidental death and dismemberment coverage may be included.

Subd. 6. "Carrier" means:

(1) For hospital benefits coverage, an insurance company licensed to do business in the state or a nonprofit hospital service association or a prepaid group practice hospital care plan authorized to do business in the state.

(2) For medical benefits coverage, an insurance company authorized to do business in the state or a nonprofit medical service association or a prepaid group practice medical care plan authorized to do business in the state.

(3) For employee life insurance benefits coverage, an insurance company authorized to do business in the state.

Subd. 7. "Commissioner" means the commissioner of employee relations.

Subd. 8. A new eligible state employee's basic coverages shall become effective on the first day of the first payroll period beginning on or after the 28th day following the first day of employment.

Subd. 9. "Dental insurance" means:

A plan that provides coverage for, or pays, or reimburses expenses for dental care, including orthodontics for an eligible employee's eligible dependent children from age 8 to 19.

History: 1965 c 780 s 2; 1967 c 103 s 2; 1967 c 905 s 5; 1969 c 1129 art 3 s 1; 1973 c 349 s 2; 1973 c 507 s 35; 1975 c 321 s 2; 1975 c 381 s 17; 1976 c 239 s 17; 1977 c 410 s 11; 1977 c 432 s 3; 1978 c 793 s 57; 1979 c 332 art 1 s 51; 1979 c 337 s 10; 1980 c 617 s 47

43.44 ENROLLMENT OF ELIGIBLE EMPLOYEES.

Subdivision 1. Every eligible employee meeting the requirements of subdivision 2 shall, at such time, in such manner, and under such conditions of eligibility as the commissioner may by regulation prescribe, be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage, the dental benefits coverage and the medical benefits coverage. Such regulations shall be within the framework of intent as set forth in section 43.42.

Subd. 2. A state employee determined to be eligible for the benefits provided in sections 43.42 to 43.50 shall continue to be eligible therefor so long as he appears on a state payroll for at least one working day during each payroll period except as otherwise provided in this subdivision. Vacation leave, compensatory time or sick leave cannot be used for the purpose of continuing state paid insurance by keeping an employee on a state payroll for one working day per payroll period during the time the employee is on an unpaid leave of absence. If the state employee is employed on the basis of a school year and his employment contemplates absences from the state payroll during the summer months and during vacation periods scheduled by the appointing authority which occur during the regular school year, he nonetheless shall continue to be eligible for such benefits provided he appears on his regular payroll for at least one working day for the payroll period immediately preceding such vacation periods. An academic employee of the University of Minnesota, the state university board, or the state board for community colleges, otherwise eligible for basic life insurance, basic dental insurance and basic health benefits coverage paid for by the state shall have continuous basic coverages maintained during the period of a sabbatical leave.

If the state employee is granted a leave of absence to work for the legislature or either branch thereof, during a regular or special legislative session, he nonetheless shall continue to be eligible for such benefits provided he appears on the state payroll or the legislative payroll for at least one working day for each payroll period.

If a state employee who has three years or more of continuous service is laid off he nonetheless shall continue to be eligible for the benefits provided in sections 43.42 to 43.50 for a period of six months from the date of layoff.

A state employee who is disabled and off the state payroll as a result of personal injury arising out of and in the course of employment with the state and is otherwise eligible for the basic life insurance, basic dental insurance and basic health benefits coverage paid for by the state shall continue to be eligible for state paid coverage during the period such employee is receiving workers' compensation payments for temporary total or temporary partial disability pursuant to an award of the workers' compensation court of appeals or is on disability leave pursuant to the rules of the department of employee relations or a collective bargaining agreement entered into under the provisions of sections 179.61 to 179.76.

Subd. 3. A member of the state legislature who becomes eligible for basic life insurance and health coverages on or after the first Monday in January,

1969, may decline to be enrolled for such basic coverages by filing a written waiver with the commissioner, provided that such waiver shall not prohibit that person from enrolling himself or his dependents for optional coverages, without cost to the state, as otherwise provided for in Laws 1967, Chapter 103.

History: 1965 c 780 s 3; 1967 c 103 s 3; 1967 c 759 s 3; Ex1967 c 1 s 6; 1973 c 349 s 2; 1973 c 507 s 34; 1975 c 271 s 6; 1975 c 321 s 2; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 452 s 25; 1979 c 332 art 1 s 52; 1980 c 617 s 47

NOTE: This section was also repealed by Laws 1979, Chapter 332, Article 1, Section 114 effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.45 CONTRACTING AUTHORITY.

Subdivision 1. The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the sole judgment of the commissioner are best qualified to underwrite and service the benefit plans. The commissioner shall consider factors such as the cost and conversion options relating to the contracts as well as the service capabilities, character, financial position, and reputation of the carriers and any other factors which the commissioner deems appropriate. Each benefit contract shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. Effective October 1, 1980, the commissioner shall, to the extent feasible, make basic hospital and medical benefits available from at least three carriers at least one each of whom shall be licensed to do business pursuant to chapters 62A, 62C and 62D. The commissioner need not provide health maintenance services to an employee who resides in an area which is not served by a licensed carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in excessive additional administrative costs. Any carrier licensed pursuant to chapter 62A shall be exempt from the tax imposed by section 60A.15 on premiums paid to it by the state.

Subd. 2. Each contract under sections 43.42 to 43.49 shall contain a detailed statement of benefits offered and shall include any maximums, limitations, exclusions, and other definitions of benefits as the commissioner may deem necessary or desirable. Each contract shall provide benefits at least equal to those required by section 62E.06, subdivision 2.

Subd. 3. The commissioner shall make available, through any carriers as the commissioner may authorize, as many optional coverages as deemed feasible and advantageous to eligible state employees and their dependents which the employees may pay for at their own expense through payroll deductions.

Subd. 4. The commissioner shall appoint and serve as chairman of an insurance advisory council consisting of 11 members. Two members shall be selected from names submitted by exclusive representatives of state employees. One member shall be selected from names submitted by exclusive representatives of employees of the University of Minnesota. One member shall be selected from names submitted by organizations representing retired state employees. One member shall be selected from names submitted by the regents of the University of Minnesota. The commissioners of administration, insurance, health and finance, and the deputy commissioner for labor relations or their designees, shall serve as the other members. Except as provided in this section, the provisions of section 15.059 shall apply to the members of the council. The council shall advise the commissioner in the selection of carriers and the implementation of collective bargaining agreements. Evidence of discussions, recommendations or decisions by the council shall not be submitted to any court or arbitrator in any matter involving state or University of Minnesota employees.

History: 1965 c 780 s 4; 1967 c 103 s 4; 1973 c 507 s 34; 1979 c 332 art 1 s 114; 1980 c 617 s 15,43

43.46 CONTRIBUTIONS BY STATE.

Subdivision 1. **Determination of total.** The total contribution by the state for each state employee and for dependents of state employees shall be prescribed by law, rule, a plan prepared pursuant to section 43.113, or a collective bargaining agreement. The contribution shall be applied to provide basic hospital benefits, basic medical benefits, basic dental benefits and basic life insurance in amounts as may be determined from time to time by the commissioner or in a collective bargaining agreement.

Subd. 2. **Employee coverage.** The amount of premium paid by the state for represented employees for state employees' basic hospital benefits, basic medical benefits and basic dental benefits coverage shall be negotiated between the state and exclusive representatives of state employees. Except as provided in this subdivision, the amount paid for each state employee's coverage shall be uniform for all employees in the same bargaining unit. Employees who select a carrier whose premium is in excess of the state payment shall be required to pay the difference. Employees who select a carrier whose premium is less than the state payment shall be paid the difference as additional compensation.

Subd. 3. **Dependent coverage.** The amount of premium paid by the state for state employees' dependents' basic hospital benefits, basic medical benefits and basic dental benefits coverage shall be negotiated between the state and exclusive representatives of state employees. Except as provided in this subdivision, the amount paid for each state employee's dependent coverage shall be uniform for all employees in the same bargaining unit. Employees who select a carrier whose premium is in excess of the state payment shall be required to pay the difference. Employees who select a carrier whose premium is less than the state payment shall be paid the difference as additional compensation.

Subd. 4. **Unrepresented employees.** The commissioner shall establish the level of state payment of premiums paid by the state for all state employees who do not have an exclusive representative and for their dependents. The levels of payment shall be included in the plan prepared pursuant to section 43.113. Payments shall be made in the manner provided for in subdivisions 2 and 3.

History: 1965 c 780 s 5; 1967 c 103 s 5; 1973 c 507 s 34; 1977 c 452 s 26; 1979 c 332 art 1 s 114; 1980 c 617 s 16,43

NOTE: This section, as amended by Laws 1980, Chapter 617, Section 16, is effective July 1, 1981. See Laws 1980, Chapter 617, Section 48.

43.47 EXCLUSION OF CERTAIN STATE EMPLOYEES.

Subdivision 1. Except as provided in section 43.491, the persons enumerated in this section and their dependents are excluded from the provisions of sections 43.42 to 43.49:

Subd. 2. An emergency, temporary, or intermittent employee of the state; student workers hired after July 1, 1979 and interns of the state; a part time or seasonal employee of the state serving on less than a 75 percent time basis; but this exclusion shall not apply to a part time or seasonal employee of the state in the classified service who prior to April 1, 1967 was eligible for state paid basic life insurance and health benefits;

Subd. 3. A deputy registrar of motor vehicles;

Subd. 4. An election official;

Subd. 5. An independent contractor engaged in work for the state under a contract or any employee thereof;

Subd. 6. An officer or employee of any court except as otherwise provided in section 43.43;

Subd. 7. A notary public;

Subd. 8. Patient or inmate help in a state institution including but not limited to the Minnesota veterans home;

Subd. 9. A student at a state educational institution who may be employed as student help;

Subd. 10. A person rendering a professional service whose duties are assigned and whose compensation is paid on a per diem basis;

Subd. 11. A member of a state board or commission who serves the state intermittently, who serves without compensation or who is paid on a per diem basis; an officer, including a secretary or treasurer, employed by a state board or commission and whose compensation is less than \$2,000 per year;

Subd. 12. A temporary employee of the legislature or a temporary employee of a study or interim committee or commission except as otherwise provided in section 43.44, subdivision 2;

Subd. 13. An employee of the board of regents of the University of Minnesota on the academic staff serving on less than a 75 percent regular appointment;

Subd. 14. An employee of the board of regents of the University of Minnesota and member of the civil service staff under the civil service plan adopted by the University of Minnesota, who is employed on an emergency, temporary, or intermittent basis; a part time or seasonal employee or member serving on less than a 75 percent time basis;

Subd. 15. An employee of the board of regents of the University of Minnesota, who has chosen to have his wages and fringe benefits governed by the terms of a master or uniform contract ("prevailing rate" employee) in accordance with the provisions of the University of Minnesota civil service rule 5.12, as amended;

Subd. 16. An employee in the unclassified civil service who is employed by the state university board or the state board for community colleges as a member of the academic staff serving on less than a 75 percent time basis;

Subd. 17. An employee of the state agricultural society; an employee of the board of regents of the University of Minnesota who is eligible for coverage under the federal employees health benefits program;

Subd. 18. A person employed in the federal economic opportunity act program, including but not limited to a neighborhood youth corps enrollee and work site supervisor, except a person who otherwise meets the eligibility requirements of sections 43.42 to 43.49, and performs administrative and clerical duties in connection with the administration by the state of the program, provided the required premium is paid from such federal funds as may be available for the administrative costs of the program.

History: 1965 c 780 s 6; 1967 c 103 s 6; 1967 c 148 s 2; 1967 c 759 s 1; 1971 c 198 s 1; 1973 c 349 s 2; 1975 c 321 s 2; 1975 c 381 s 18; 1977 c 432 s 4; 1979 c 332 art 1 s 53

43.48 ADMINISTRATION.

After the commissioner shall have entered into contracts with carriers as provided in section 43.45, it shall be his responsibility to maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the intent of sections 43.42 to 43.49. The commissioner may promulgate such regulations as may be necessary to carry out the provisions of sections 43.42 to 43.49. Upon request of the commissioner, the commissioner of finance shall perform necessary accounting and disbursements functions.

History: 1965 c 780 s 7; 1973 c 507 s 33

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.49 REPORTS AND AUDITS.

Subdivision 1. The commissioner shall transmit to each regular session of the legislature a report concerning the operations of sections 43.42 to 43.49.

Subd. 2. The commissioner shall include provisions in contracts with carriers which would require carriers to (1) furnish such reasonable reports as the commissioner determines to be necessary to enable it to carry out its functions under sections 43.42 to 43.49, and (2) permit the commissioner to examine records of the carriers as may be necessary to carry out the purposes of sections 43.42 to 43.49.

Subd. 3. Each state department and agency shall keep such records, make such certifications, and furnish the commissioner or carriers with such information and reports as may be necessary to enable the commissioner or carriers to carry out its functions under sections 43.42 to 43.49.

History: 1965 c 780 s 8; 1973 c 507 s 34

NOTE: This section is repealed effective July 1, 1981. See Laws 1979, Chapter 332, Article 1, Section 114.

43.491 OPTIONAL COVERAGES FOR NONELIGIBLE STATE EMPLOYEES.

Subdivision 1. A member of the legislature until the first Monday in January, 1969, or a person not specifically included as an eligible state employee in section 43.43, or not specifically excluded by section 43.47, if employed on a state payroll, and his dependents may be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage, the medical benefits coverage, and such optional coverage, without cost to the state, at such time, in such manner, and under such conditions of eligibility as the commissioner may by regulation prescribe and otherwise approve. If such person and his dependents are enrolled in such coverages the commissioner may also provide by regulation for payroll deductions to be made in the same manner, and under the same conditions, as provided for by section 43.50, subdivision 1a, authorizing payroll deductions for an eligible state employee and his dependents.

Subd. 2. The following persons enumerated in this subdivision though excluded by section 43.47 from coverage are nonetheless eligible for coverages at their own expense pursuant to the provisions of subdivision 1:

- (1) A part time or seasonal employee of the state serving on less than a 75 percent time basis;
- (2) An employee of the board of regents of the University of Minnesota on the academic staff serving on less than a 75 percent regular appointment;
- (3) A part time or seasonal employee of the board of regents of the University of Minnesota and a member of the civil service staff under the civil service plan serving on less than a 75 percent time basis;
- (4) An employee in the unclassified service of the state civil service who is employed by the state university board or the state board for community colleges as a member of the academic staff serving on less than a 75 percent time basis;
- (5) An officer or employee of the state agricultural society, state horticultural society, Sibley house association, Minnesota humanities commission, Minnesota international center, Minnesota academy of science, science museum of Minnesota, Minnesota safety council, or Minnesota humane society;
- (6) A civilian employee of the adjutant general who is paid from federal funds and who is not eligible to benefits from any federal civilian employee group life insurance or health benefits program;

(7) An officer or employee of the state capitol credit union or the hiway credit union.

Subd. 3. Any member who has served in the legislature may, following such service, enroll himself and his dependents in the hospital benefits coverage and the medical benefits coverage at his own expense. Costs of coverage shall be at applicable group rates and shall be paid by payroll deductions, or in the manner prescribed by regulation of the commissioner.

Subd. 4. Notwithstanding the restrictions contained in section 43.44, subdivision 2, a retired judge of the supreme court or district court, within 90 days of April 1, 1976 or within 30 days of the effective date of his retirement, whichever period terminates later, may elect to participate at his own expense in the hospital benefits coverage and medical benefits coverage provided by sections 43.42 to 43.50. The retired judge may also, at his own expense, obtain hospital benefits coverage and medical benefits coverage for his dependents who meet the general dependent eligibility requirements for those coverages. The commissioner by rule shall establish forms and procedures for exercise of the option provided by this section and for the payment of necessary premiums. A retired judge shall pay the full cost of the coverages provided to him or to his dependents under this section, as determined from time to time by the commissioner. Until rules are established under this section, a retired judge may exercise his option by notifying the commissioner in writing and by tendering payment of premiums as required by the commissioner.

Subd. 5. Notwithstanding the restrictions contained in section 43.44, subdivision 2, a retired state employee who is eligible for, applies for and receives an annuity under a state retirement program shall be eligible to continue to participate at his own expense in the hospital benefits coverage and medical benefits coverage provided for other state employees by sections 43.42 to 43.50. The retired employee may also, at his own expense, continue hospital benefits coverage and medical benefits coverage for his dependents who meet the general dependent eligibility requirements for those coverages. The coverage shall be coordinated with relevant health insurance benefits provided through the federally-sponsored medicare program. Within 30 days after August 1, 1979, or within 30 days after the effective date of his retirement, whichever day is later, the employee shall notify the commissioner or his designee of his intention to continue the coverage. The commissioner shall establish forms and procedures, including provisions for notice to the retired or retiring employee, for exercise of the option provided by this section and for payment of necessary premiums.

History: 1967 c 103 s 7; 1967 c 759 s 2; 1973 c 349 s 2; 1973 c 507 s 34; 1974 c 420 s 1; 1975 c 321 s 2; 1975 c 417 s 1; 1976 c 98 s 1; 1978 c 734 s 16; 1979 c 332 art 1 s 54; 1979 c 337 s 11

43.50 PAYMENT OF PREMIUMS. —

Subdivision 1. Each department of the state government shall pay the amounts due for basic life insurance, basic dental insurance, basic hospital benefits and basic medical benefits coverage authorized for eligible state employees pursuant to this chapter.

The benefits provided in this section shall apply to eligible members of the legislature and their eligible dependents when they become eligible for the benefits. Each of the departments shall pay the amounts from accounts and funds from which the department receives its revenues, including appropriations from the general fund and from any other fund, now or hereafter existing for the payment of salaries and in the same proportion as it pays therefrom the amounts of salaries. In order to enable the commissioner of finance to maintain proper records covering the appropriations pursuant to this section, he may require cer-

tifications in connection therewith as he may deem necessary from any state agency, the Minnesota historical society, or the University of Minnesota whose employees receive benefits pursuant to this chapter. The accounts and funds referred to from which departments receive appropriations under the terms of this section are hereby declared to be a source of revenue for the purposes of any other law or statutory enactment.

Subd. 1a. If an eligible state employee enrolls himself or his dependents for any of the optional coverages made available by the commissioner pursuant to section 43.45, subdivision 3, the commissioner of finance, upon such employee's written order, shall deduct from the salary or wages of such employee those amounts required from time to time to maintain such optional coverages in force, and issue his warrant therefor to the appropriate carrier.

Subd. 2. If for any reason there is insufficient moneys in the state treasury to provide moneys to expend under the appropriations made by subdivision 1 from any account or fund in the state treasury, such additional moneys as may be necessary therefor are hereby appropriated from the general fund in the state treasury for such purpose.

Subd. 3. [Repealed, 1980 c 617 s 45]

History: 1965 c 901 s 83; 1967 c 103 s 8,9; 1969 c 399 s 1; 1973 c 492 s 14; 1973 c 507 s 34; 1973 c 653 s 22; 1975 c 431 s 21; 1977 c 452 s 27; 1979 c 332 art 1 s 55,114; 1980 c 617 s 17,43

43.51 DEATH BENEFIT FOR RETIRED EMPLOYEES.

Employees who retire from state service on or after July 1, 1977, shall be entitled to a \$500 cash death benefit payable to a beneficiary designated by the employee, if, at the time of the employee's death, the employee is entitled to an annuity under a state retirement program. A \$500 cash death benefit shall also be payable to the designated beneficiary of an employee who becomes totally and permanently disabled after July 1, 1979, and who at the time of death is receiving a state disability benefit and is eligible for a deferred annuity under a state retirement program.

History: 1977 c 452 s 28; 1979 c 332 art 1 s 56,114; 1980 c 617 s 43

DEMONSTRATION JOB-SHARING PROJECT

43.56 PURPOSE.

The purpose of sections 43.56 to 43.62 is to increase career opportunities in the Minnesota state service through job-sharing.

History: 1980 c 572 s 1

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.57 DEFINITIONS.

For the purposes of sections 43.56 to 43.62 the following terms have the meanings given them:

(a) "Agency" means a department, agency, commission, board, institution, or other entity in the executive branch in which all positions are under the same appointing authority.

(b) "Commissioner" means the commissioner of personnel.

(c) "Coordinator" means the coordinator of the Minnesota demonstration job-sharing program.

(d) "Shared position" means a classified position which has been converted from a full-time position into part-time positions of equivalent class for purposes of sections 43.56 to 43.62.

(e) "Program" means the Minnesota demonstration job-sharing program.

(f) "Appropriate shared-time percent" means the percent of full-time hours allocated to a particular shared-time position.

History: 1980 c 572 s 2

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.58 POSITIONS AFFECTED.

A total of 50 full-time positions within agencies of state government shall be selected for inclusion within the program. These positions shall be selected within as few separate agencies as possible, and in no case shall positions be selected in more than ten agencies. No fewer than 15 of these positions shall be either professional, supervisory or managerial positions. In no instance shall a person in a shared time position work less than 40 percent time. No position shall be selected if it is contained in a unit which is represented by an exclusive representative which has a collective bargaining agreement covering the unit unless the exclusive representative agrees to the selection. All shared time positions shall be equivalent in classification to the full-time position from which they are converted.

History: 1980 c 572 s 3

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.59 COORDINATOR.

Subdivision 1. There shall be a coordinator of the program designated by the commissioner from among the employees of the department of personnel.

Subd. 2. The coordinator shall have the following powers and duties:

(1) To select, in cooperation with the affected agencies and the commissioner, the agencies and the positions within the agencies to be included in the program;

(2) To design and implement, in cooperation with the affected agencies and the commissioner, an evaluation plan for the program, in accordance with accepted research criteria, to ascertain the effect of job-sharing on employee satisfaction, productivity, absenteeism, administrative and supervisory time demands, and increased costs both direct and indirect, as well as any other relevant impact on employer or employee;

(3) To coordinate the conversion of full-time to shared positions in the affected agencies and to assist in the design of the shared positions, with attention to employee and employer needs and to the potential for replicability of the program experience in other agencies throughout state government. All shared positions shall be equivalent in classification to the full-time position from which they are converted;

(4) To assist the affected agencies and the commissioner in recruitment, selection and hiring for the affected positions;

(5) To assist both supervisors and employees in the affected agencies in the transition to shared positions under the program and to recommend to the commissioner any modifications in rules, executive authority or statutes deemed desirable to effectuate the purposes of sections 43.56 to 43.62;

(6) To monitor the positions selected pursuant to section 43.58, in cooperation with the affected agencies and the commissioner, throughout the term of the program; and

(7) To assist the commissioner in reporting to the governor and the legislature on January 1, 1981 and January 1, 1982. The commissioner's report shall provide an evaluation of the experience of the program, with attention to the items listed in, clause (2) in addition to any other relevant information, and shall

offer recommendations concerning the further increase of shared positions in the state service.

History: 1980 c 572 s 4

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.60 BENEFITS OF EMPLOYMENT.

Subdivision 1. This section shall govern the compensation and benefits of employees in shared positions where inconsistent with other law.

Subd. 2. A position selected by the coordinator pursuant to section 43.58 shall be divided into shared positions to be compensated at the rate of the appropriate shared-time percent of the otherwise appropriate salary. The classification of a shared position shall be the same as that applicable to the full-time position from which it is converted.

Subd. 3. Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(1) Membership in the Minnesota state retirement system, the teachers retirement association, or the highway patrol retirement fund, whichever is appropriate, except that employees who are members of the Minnesota state retirement system or the highway patrol retirement fund shall have allowable service for purposes of section 352.01, subdivisions 11 and 16, credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year;

(2) Vacation and sick leave accrual at the rate of the appropriate shared-time percent of the entitlement of comparable full-time employees;

(3) Employee dental, medical and hospital benefits coverage shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared-time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(4) Dependent life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared-time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(5) Employees in shared positions shall be entitled to the appropriate shared-time percent of the holiday pay to which comparable full-time employees are entitled for holidays observed by the full-time employees whenever the employee in a shared position would otherwise be scheduled to work on that day. The employee may be allowed to reschedule working hours to avoid any loss in pay due to the prorating of holiday pay. When an employee in a shared position is not scheduled to work on an observed holiday the next scheduled working day shall be treated as the holiday;

(6) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(7) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared-time percent of those available to comparable full-time employees, whenever the benefits are divisible. Contributions by the employer toward the benefits, if any, shall be equal to the appropriate share time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allocated, the appropriate shared-time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

History: 1980 c 572 s 5; 1980 c 618 s 21

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.61 ACCEPTANCE OF SHARED POSITIONS.

No employee holding a full-time or three-quarter time position on July 1, 1980 shall be required to accept a shared position pursuant to sections 43.56 to 43.62.

History: 1980 c 572 s 6

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.

43.62 CONFLICTING LAWS.

Sections 43.56 to 43.62 shall be given effect notwithstanding any law or rule to the contrary. Sections 43.56 to 43.62 shall not affect, except as expressly provided therein, any existing labor agreement or personnel rule.

History: 1980 c 572 s 7

NOTE: This section expires June 30, 1982. See Laws 1980, Chapter 572, Section 9.