

Sec. 4. Minnesota Statutes 1967, Section 352.72, Subdivision 4, is amended to read:

Subd. 4. **Refundment repayment.** Any person who has received a refundment from the state employees retirement fund prior to July 1, 1961, and who is a member of either the public employees retirement association or the state teachers retirement association may repay such refundment with interest to the state employees retirement fund. If a refundment is repaid to the fund and more than one refundment has been received from the fund, all refundments must be repaid. Such repayment shall be made as provided in Minnesota Statutes 1957, Section 352.23, and acts amendatory thereof, and under such terms and conditions consistent therewith as may be agreed upon with the director. *If a refundment has been received from the fund subsequent to June 30, 1961, the provisions of this subdivision do not apply and repayment of refundment can be made only as provided in section 352.23.*

Approved April 25, 1969.

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#### CHAPTER 189—S. F. No. 841

*An act relating to the state civil service; reallocation of positions; amending Minnesota Statutes 1967, Section 43.12, Subdivision 3.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1967, Section 43.12, Subdivision 3, is amended to read:

Subd. 3. **Civil service; reallocation of positions.** (1) The director shall allocate each position in the classified civil service to one of the classes within the classification plan, subject to review of the board if an application is made in writing to the board upon one of the grounds set forth in clause (7) by the appointing authority immediately affected at any time within 30 days following notice to him of that allocation, or within 30 days from the date of notice of the final action of the director in case of an application for reconsideration, as hereinafter provided for, 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 board, except those positions for which special provision is made in clause (6) below. *When a position which has not been allocated to one of the classes within the classification plan is established, the ap-*

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**

pointing authority shall notify the director, who shall allocate that new position to its appropriate class, subject to the same right of review by the board as heretofore provided in this clause.

(2) After the director makes an allocation under clause (1), 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 director 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 director shall act upon that application within ten days after receiving it, and notify the appointing authority of his final action. In case of the filing of such application for reconsideration, the time for asking a review by the board shall commence to run from the date of notice to the appointing authority of the director's final action.

(3) 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 director 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 reallocate it to an appropriate class. If the director makes a reallocation or denies an application for reallocation, under this clause, 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 clause (2), and the procedure set out in clause (2) shall apply to such application. Except as provided in clause (6) below, any reallocation granted by the director 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 director of his final action. A permanent employee or appointing authority shall have the same right of review by the board of a reallocation which changes the class of a position as is granted an appointing authority in the case of an original allocation. Application for such a review must be made within 30 days from the date of notice by the director of his original action, or, if a reconsideration has been asked, within 30 days from the date of the director's final action upon that application.

(4) In case of any allocation under clause (1), or any reallocation under clause (3), no examination of witnesses nor any trial or hearing shall be required, but the director may act upon such matters

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as are submitted to him in writing by the employee whose position will be affected by a reallocation or by the appointing authority who will be affected by an allocation or a reallocation, 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 reallocation, the burden of proof shall be upon the person requesting the reallocation.

(5) Except as provided in clause (6) below, the incumbent of a position which has been reallocated 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 rules of the board governing 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 provisions of this chapter and the rules of the board shall apply. Personnel changes required by the reallocation of positions shall be completed within a period of 60 days following the date of reallocation notice to an appointing authority. Any employee with permanent or probationary status whose position is reallocated shall be considered eligible to compete in any promotional examination held to fill the reallocated position, as provided in the rules of the board.

(6) When a position is reallocated by the director to a class in a lower salary range, the director and the commissioner of administration may give consideration to the employee's long or outstanding service, exceptional or technical qualifications, age, ~~or~~ health, *or operational changes in state government which eliminate positions held by classified employees with permanent status.* When, as a result of such consideration, the director and the commissioner determine 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 provided for in section 43.123, subdivision 4,~~ until such time as his salary once again may be within the range of the class to which his position has been reallocated.

(7) A review by the board as provided for in this subdivision may be had when the employee or appointing authority affected files an application for review in writing on the ground:

(a) That the action of the director was not in accordance with the civil service act;

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(b) That the action of the director was unwarranted by the evidence before him, or was procured by fraud, coercion or other improper conduct of any party in interest.

The board after receiving any application for review shall order the director to submit to it the record upon which he acted and thereafter, upon that record, may sustain, reverse or modify the action of the director or, in its discretion, may order that further evidence be taken by him to be submitted to the board and considered by it upon its review.

Approved April 25, 1969.

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CHAPTER 190—S. F. No. 893

[Coded]

*An act relating to conservation; authorizing the commissioner of conservation to establish, develop, maintain, and operate recreational areas on public lands under his jurisdiction; authorizing the acquisition of certain interests in lands in connection with trails.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[84.029] Conservation; recreational areas on public land. [Subdivision 1.] Establishment, development, maintenance and operation.** In addition to other lawful authority, the commissioner of conservation may establish, develop, maintain, and operate recreational areas, including but not limited to campgrounds, day use areas, trails, and canoe routes, for the use and enjoyment of the public on any state owned or leased land under his jurisdiction. Each employee of the department of conservation, while engaged in his employment in connection with such recreational areas, has and possesses the authority and power of a peace officer when so designated by the commissioner.

Sec. 2. **[Subd. 2.] Acquisition of land for trails.** The commissioner may acquire, by gift, purchase, or lease, easements or other interests in land for trails, and recreational uses related to trails, where necessary to complete trails established primarily in state forests, state parks, or other public land under the jurisdiction of the commissioner.

Approved April 25, 1969.

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