
CHAPTER 734-S.F.No.1864

[Coded in Part]

An act relating to state employees; improving testing procedures; tightening provisions relating to provisional appointments; providing for a pilot reliability-based band width certification program; altering certain requirements for appointment and benefit eligibility; establishing special procedures for filling certain positions; providing for modified reimbursements of costs; providing notification of appeal rights; appropriating money; amending Minnesota Statutes 1976, Sections 43.13, Subdivision 1, and by adding a subdivision; 43.14, Subdivision 1; 43.18; 43.19, Subdivision 1; 43.20, Subdivisions 2, 3, 5, and by adding a subdivision; 43.24, Subdivision 1; 43.32, Subdivision 11; 43.327, Subdivisions 1 and 2; 43.491, by adding a subdivision; and Chapter 43, by adding a section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 43.13, Subdivision 1, is amended to read:

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 office or employment 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~~, examiners' separate ratings, if more than one examiner conducts the oral examinations, is the applicant's oral examination rating. ~~The appointing authority may pay reasonable travel expenses actually incurred to applicants invited for oral examinations for those positions where unusual difficulty in recruiting qualified applicants is being encountered.~~

Sec. 2. Minnesota Statutes 1976, Section 43.13, is amended by adding a subdivision to read:

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.

Sec. 3. **TRANSITION PROVISION.** The commissioner may promulgate temporary rules in order to implement section 2 as soon as possible.

Sec. 4. Minnesota Statutes 1976, Section 43.14, Subdivision 1, is amended to read:

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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 ~~or employment~~ 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 guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct;~~ or who has been dismissed from the public service for delinquency or misconduct; ~~or 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.

Sec. 5. Minnesota Statutes 1976, Chapter 43, is amended by adding a section to read:

[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.

Sec. 6. Minnesota Statutes 1976, Section 43.18, is amended to read:

43.18 VACANCIES. Subdivision 1. **NOTICE.** Appointing ~~officers~~ authorities shall give written notice to the commissioner of personnel of their intention to establish new positions and of the existence of any vacancy to be filled ~~in any office or employment~~ 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 ~~grade and~~ 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 ~~grade and~~ 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. **ORIGINAL ENTRY.** In the case of positions to be filled by open
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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 first ten available eligibles 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 ~~officer~~ 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 in length of service shall also be one of the factors in an appointment in the manner as provided by personnel rule. The provisions of this section shall not apply when the ~~offee~~ of employment situation is among those listed in section 43.20, for which competitive examinations are not required.

Sec. 7. Minnesota Statutes 1976, Section 43.19, Subdivision 1, is amended to read:

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 classified service, and, subject to such exceptions as the commissioner may provide, from the lower class ~~or group within the particular classification;~~ and in accordance with section 43.18 and personnel 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; ~~character;~~ and job-related conduct shall ~~at~~ constitute a factor. For positions defined by personnel rule as "non-managerial" seniority shall also constitute a factor.

(2) The commissioner may authorize the appointing authority of any state ~~office or department~~ agency to promote any employee in that ~~office or department~~ agency to a position of in a higher grade or class requiring peculiar and exceptional qualifications of an administrative, scientific, professional, or expert character, following a non-competitive examination, which shall be practical and shall involve only the duties of the position.

(3) The commissioner shall give the non-competitive examinations provided for in clause (2) upon request of any appointing authority, in accordance with personnel rules.

Sec. 8. Minnesota Statutes 1976, Section 43.20, Subdivision 2, is amended to read:

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 ~~any 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; ~~but.~~ When requesting a provisional

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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.

Sec. 9. Minnesota Statutes 1976, Section 43.20, Subdivision 3, is amended to read:

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 ten working days, and in no case shall successive emergency appointments be made; this provision shall apply to both persons and positions; and no person shall receive more than three emergency appointments in any one or different positions within ~~one year~~ any 12 month period.

Sec. 10. Minnesota Statutes 1976, Section 43.20, Subdivision 5, is amended to read:

Subd. 5. Where the services to be rendered by an appointee are for a temporary period not to exceed an accumulation of six months in any 12 month period, the commissioner shall 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. ~~No person shall receive more than one temporary appointment within one year.~~ No temporary appointment shall exceed an accumulation of 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.

Sec. 11. Minnesota Statutes 1976, Section 43.20, is amended by adding a subdivision to read:

Subd. 8. Where the position to be filled is of a routine, service nature involving
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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.

Sec. 12. Minnesota Statutes 1976, Section 43.24, Subdivision 1, is amended to read:

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, which shall not be religious or political, or because of the employee's race, sex, disability or age, subject however to the mandatory retirement ages specified by law. 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, 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 board.

Sec. 13. Minnesota Statutes 1976, Section 43.32, Subdivision 11, is amended to read:

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.

Sec. 14. Minnesota Statutes 1976, Section 43.327, Subdivision 1, is amended to read:

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 ~~officers and~~ 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.

Sec. 15. Minnesota Statutes 1976, Section 43.327, Subdivision 2, is amended to

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read:

Subd. 2. **COMMISSIONER TO MAKE RULES ON TRAVEL.** The commissioner shall make personnel rules relating to travel of state ~~officers and~~ employees on state business and expenses incurred thereon. 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.

Sec. 16. Minnesota Statutes 1976, Section 43.491, is amended by adding a subdivision to read:

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 the effective date of this section 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 for exercise of the option provided by this section and for payment of necessary premiums.

Sec. 17. **RELIABILITY-BASED BAND WIDTH CERTIFICATION.** Subdivision 1. SELECTION OF CLASSES. Notwithstanding the provisions of Minnesota Statutes, Section 43.18 or any other law to the contrary, the commissioner of personnel shall designate job classes in the state classified civil service to be filled according to the reliability-based band width certification procedure specified in this section. The commissioner shall designate classes covering a broad spectrum of types of employment and shall designate classes which include positions under the jurisdiction of the greatest possible number of state agencies.

Subd. 2. **DEFINITION.** As used in this section, reliability-based band width certification shall mean a process for the preparation of a list of certified eligibles for filling vacant positions within a job class, based upon the statistical reliability of the examination. The list shall be composed of those persons who received a passing score and whose scores fell within that top range of scores which the reliability determination reveals to be substantially indistinguishable. In no event shall a list of certified eligibles prepared under the band width certification procedure contain less than ten names unless fewer than ten persons received passing scores, in which case all persons who received passing scores shall be placed on the list. Names of certified eligibles on a list prepared under this section shall be placed in random order and shall not be ranked when delivered to an appointing authority. This section shall not be deemed to be inconsistent with other laws which would expand the size of an eligible list beyond the size provided for in this

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section.

Subd. 3. PROCEDURES. The commissioner shall establish uniform procedures for the implementation of this section. The procedures shall be adopted as temporary rules and, notwithstanding the limitations of Minnesota Statutes, Section 15.0412, shall be effective for the duration of the band width certification program unless superseded, repealed or amended by temporary or other rule. When a list of certified eligibles prepared pursuant to this section is supplied to an appointing authority, the list shall be accompanied by an explanation of the program and a copy or summary of applicable rules.

Subd. 4. MONITORING; REPORT. No later than January 1, 1980, the commissioner shall provide the governor and the legislature with a report giving the procedures, results, costs and evaluations of the program and the substance of comments received from affected persons. In the report he shall recommend whether to continue the program and what changes may be necessary. Periodically throughout the duration of the program he shall advise the governmental operations committees of the senate and the house of representatives and the legislative audit commission on the progress of the program and his evaluation to date.

Sec. 18. APPROPRIATIONS. \$244,700 is appropriated from the general fund in the state treasury to the commissioner of personnel for the period ending June 30, 1979, to be used for personnel technical services, revision and mailing of job announcements, establishment of a toll free telephone service to assist potential applicants, determination of applicant availability and any other activity authorized by this act.

The authorized complement of the department is increased by ten persons.

Sec. 19. EFFECTIVE DATE. This act is effective the day following final enactment. Section 17 expires June 30, 1980. Procedures relating to examinations announced prior to May 1, 1978, shall be completed pursuant to law in effect on the day prior to the effective date of this act. Certifications of eligibles in force on May 1, 1978, shall remain effective pursuant to law in effect on the day prior to the effective date of this act.

Approved April 5, 1978.

CHAPTER 735-S.F.No.1943

[Coded in Part]

An act relating to natural resources; concerning forestry; regulating the maintenance of fires; amending Minnesota Statutes 1976, Sections 88.01, by adding a subdivision; 88.10; 88.16; 88.17; 88.22; 88.73; 88.75, Subdivision 1; 88.76; 88.77; and 88.78.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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