

7380.0230; 7380.0240; 7380.0500; 7380.0510; 7380.0520; 7380.0530; 7380.0540;
7380.0550; 7380.0560; 7380.0570; 7380.0580; 7380.0581; 7380.0582; 7380.0600;
7380.0610; 7380.0620; 7380.0630; 7380.0640; 7380.0650; 7380.0800; 7380.0810;
7380.0820; 7380.0830; and 7380.0840, are repealed.

Sec. 54. EFFECTIVE DATE.

Sections 1 to 53 are effective the day following final enactment.

Presented to the governor May 14, 2004

Signed by the governor May 18, 2004, 3:05 p.m.

CHAPTER 207—S.F.No. 2703

An act relating to state employment; modifying state hiring process provisions; adding, modifying, and eliminating definitions; making technical changes; requiring a study and report on the impacts of the political subdivision compensation limit; amending Minnesota Statutes 2002, sections 43A.02, subdivisions 4, 6, 11, 26, 32, 34, by adding subdivisions; 43A.04, subdivisions 3, 4; 43A.05, subdivision 1; 43A.10; 43A.11, subdivisions 5, 7, 8, 9; 43A.15, subdivisions 1, 2, 4, 7, 10, 15; 43A.16, subdivision 1; 43A.191, subdivision 3; 43A.36, subdivision 1; 43A.39, subdivision 1; 197.455; Minnesota Statutes 2003 Supplement, section 43A.15, subdivision 14; proposing coding for new law in Minnesota Statutes, chapter 43A; repealing Minnesota Statutes 2002, sections 43A.02, subdivisions 7, 8, 15, 16, 19, 20, 37; 43A.11, subdivisions 3, 4; 43A.12; 43A.13, subdivisions 1, 2, 3, 4, 5, 6, 8; 43A.15, subdivisions 8, 9, 11; Minnesota Statutes 2003 Supplement, section 43A.13, subdivision 7; Minnesota Rules, parts 3900.3300; 3900.6100; 3900.6300; 3900.6400; 3900.6500; 3900.6600; 3900.7100; 3900.7200; 3900.7300; 3900.7400; 3900.8500; 3900.8600; 3900.8800.

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

Section 1. Minnesota Statutes 2002, section 43A.02, subdivision 4, is amended to read:

Subd. 4. **APPLICANT.** "Applicant" means a person who has completed a state application for employment and has submitted it to the Department of Employee Relations or other appointing authority who has been delegated authority to recruit and examine individuals for state jobs satisfied the minimum requirements for application established by the commissioner.

Sec. 2. Minnesota Statutes 2002, section 43A.02, is amended by adding a subdivision to read:

Subd. 4a. **APPLICANT POOL.** "Applicant pool" means those applicants who satisfy any limits on consideration for the position under section 43A.10, subdivision 6a, and who have been determined to meet the minimum qualifications for a vacant position.

New language is indicated by underline, deletions by strikeout.

Sec. 3. Minnesota Statutes 2002, section 43A.02, subdivision 6, is amended to read:

Subd. 6. **APPOINTMENT.** "Appointment" means the act of filling a vacancy by placement of a person in a civil service position through selection from an eligible list a finalist pool or a noncompetitive or qualifying process including transfer, demotion or reinstatement.

Sec. 4. Minnesota Statutes 2002, section 43A.02, subdivision 11, is amended to read:

Subd. 11. **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 and that the same general qualifications are needed for performance of the duties of the class, 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.

Sec. 5. Minnesota Statutes 2002, section 43A.02, is amended by adding a subdivision to read:

Subd. 22b. **FINALIST POOL.** "Finalist pool" means those members of the applicant pool who have been determined to best meet all the qualifications for a vacant position and who may be legally appointed to the position.

Sec. 6. Minnesota Statutes 2002, section 43A.02, subdivision 26, is amended to read:

Subd. 26. **LAYOFF LIST.** "Layoff list" means an eligible list by class of former permanent or probationary employees of a job class who have been terminated from positions in the class because of a shortage of funds or curtailment of service or for any other reason beyond their control not reflecting discredit on the employee are eligible to be recalled to that class under the provisions of a collective bargaining agreement or plan established under section 43A.18.

Sec. 7. Minnesota Statutes 2002, section 43A.02, subdivision 32, is amended to read:

Subd. 32. **PROBATIONARY PERIOD.** "Probationary period," part of the examination selection process, means a working period following unlimited appointment to a position in the classified service, during which the employee is required to demonstrate ability to perform the duties and fulfill the responsibilities of the position.

Sec. 8. Minnesota Statutes 2002, section 43A.02, subdivision 34, is amended to read:

Subd. 34. **QUALIFYING APPOINTMENT.** "Qualifying appointment" means the selection, from other than an eligible list a finalist pool, of a candidate an applicant who has demonstrated through an examination a selection process that the candidate applicant meets minimum job-related requirements.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 2002, section 43A.04, subdivision 3, is amended to read:

Subd. 3. **RULES.** The commissioner shall adopt rules under the Administrative Procedure Act to implement the provisions of this chapter that directly affect the rights of or processes available to the general public. The rules have the force and effect of law and may include but are not limited to:

(1) the processes for determining the extent of competition for filling vacancies, for recruiting applicants, for conducting competitive open examinations, for ranking candidates and maintaining competitive open eligible lists, and for certification and appointment of eligibles from competitive open eligible lists selection procedures and for making appointments of individuals who are not employees of the civil service;

(2) the process for effecting noncompetitive and qualifying appointments;

(3) the process for temporary designation of positions in the unclassified service and for effecting appointments to the unclassified service;

(4) a statewide affirmative action program to include requirements for agency affirmative action plans, statewide policies and procedures, reporting requirements, accountability and responsibility of employees in the executive branch, and overall objectives of the program;

(5) conditions under which moving and other expenses may be authorized and paid prior to appointment to persons who have accepted state employment;

(6) procedures for administration of the code of ethics for employees of the executive branch;

(7) examination procedures for candidates with disabilities as described in section 43A.15, subdivision 14; and

(8) procedures or policies that affect the operation of or participation in the public employees insurance program.

Sec. 10. Minnesota Statutes 2002, section 43A.04, subdivision 4, is amended to read:

Subd. 4. **ADMINISTRATIVE PROCEDURES.** The commissioner shall develop administrative procedures, which are not subject to the rulemaking provisions of the Administrative Procedure Act, to effect provisions of chapter 43A which do not directly affect the rights of or processes available to the general public. The commissioner may also adopt administrative procedures, not subject to the Administrative Procedure Act, which concern topics affecting the general public if those procedures concern only the internal management of the department or other agencies and if those elements of the topics which affect the general public are the subject of department rules.

Administrative procedures shall be reproduced and made available for comment to agencies, employees, and appropriate exclusive representatives certified pursuant to

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sections 179A.01 to 179A.25, for at least 15 days prior to implementation and shall include but are not limited to:

(a) maintenance and administration of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service;

(b) procedures for administration of collective bargaining agreements and plans established pursuant to section 43A.18 concerning total compensation and the terms and conditions of employment for employees;

(c) procedures for effecting all personnel actions internal to the state service such as processes and requirements for agencies to publicize job openings and consider applicants who are referred or nominate themselves, conduct of competitive promotional examinations, ranking and certification of selection procedures limited to employees for promotion, noncompetitive and qualifying appointments of employees and leaves of absence;

(d) maintenance and administration of employee performance appraisal, training and other programs; and

(e) procedures for pilots of the reengineered employee selection process. Employment provisions of this chapter, associated personnel rules adopted under subdivision 3, and administrative procedures established under clauses (a) and (c) may be waived for the purposes of these pilots. The pilots may affect the rights of and processes available to members of the general public seeking employment in the classified service. The commissioner will provide public notice of any pilot directly affecting the rights of and processes available to the general public and make the administrative procedures available for comment to the general public, agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25 for at least 30 days prior to implementation.

Sec. 11. Minnesota Statutes 2002, section 43A.05, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** The commissioner through the Personnel Bureau shall perform the duties assigned in this chapter. The deputy for the Personnel Bureau shall perform any duties delegated by the commissioner.

The commissioner's authority and responsibility shall include but not be limited to maintenance of a classification plan, assignment of all positions in the classified service to job classes, maintenance and approval of total compensation plans for all positions in the executive branch pursuant to the provisions of section 43A.18 and other provisions of law; preparation of examinations, rating of candidates for employment and preparation of eligible lists administration of systems for employee selection; maintenance of employee performance appraisal, training and affirmative action programs; and maintenance and publication of logical career paths in the classified civil service.

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Sec. 12. Minnesota Statutes 2002, section 43A.10, is amended to read:

43A.10 EXAMINATIONS SELECTION PROCESS; ELIGIBILITY TO COMPETE.

Subdivision 1. **GENERAL.** Entrance to the classified service shall be through successful competition in an examination and certification a selection process and appointment from an eligible list a finalist pool except as provided in section 43A.15 or other law and for employees in a bargaining unit as defined in section 179A.10, appointments shall be subject to applicable provisions of collective bargaining agreements.

Subd. 2. **EXAMINATION SELECTION CRITERIA AND METHODS.** All examinations selection criteria and methods for filling positions in the classified service shall be job related and designed to fairly assess ability to perform the duties of the class vacant position for which the examination selection process is given conducted.

Subd. 2a. **APPLICATION REQUIREMENTS.** The commissioner shall establish and maintain a database of applicants for state employment. The commissioner shall establish, publicize, and enforce minimum requirements for application. The appointing authority shall enforce the established minimum requirements for application for individuals who express interest directly to the appointing authority.

Subd. 2b. **TERM OF ELIGIBILITY.** The term of eligibility on layoff lists shall be as provided in the collective bargaining agreement or plan established under section 43A.18, under which the layoff list was established. The term of eligibility for all other applicants shall be determined by the commissioner but shall not be less than six months.

Subd. 3. **FACILITIES FURNISHED EXAMINERS FOR SELECTION PROCEDURES.** The authorities having control of public buildings in political subdivisions of the state and school districts, upon written request of the commissioner, shall furnish convenient facilities for the administration of examinations selection procedures. Upon such request, it shall be the duty of state and local authorities and employees, as it is consistent with their other duties, to aid in carrying out the provisions of this section. Campuses of the Minnesota State Colleges and Universities may charge the commissioner for actual costs incurred in providing facilities for examinations selection procedures, provided that the costs were incurred due solely to the examination selection procedure.

Subd. 4. **CANDIDATES, ELIGIBLES APPLICANTS; EXPENSES.** The commissioner or an appointing authority may pay travel expenses incurred by candidates or eligibles applicants invited for oral examinations or employment interviews in the manner and amounts authorized by the commissioner.

Subd. 5. **ELIGIBILITY FOR COMPETITIVE OPEN EXAMINATIONS.** Competitive open examinations shall, upon public notice, be open to all applicants who meet reasonable job-related requirements fixed by the commissioner.

Subd. 6. **ELIGIBILITY FOR COMPETITIVE PROMOTIONAL EXAMINATIONS.** Competitive promotional examinations shall be open only to employees of

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the civil service, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association. The commissioner may require that competition be extended to all employees as defined above or may limit competition to employees of one or more agencies or organizational units thereof or to employees meeting specified employment conditions.

Subd. 6a. LIMITED CONSIDERATION OF APPLICANTS. The commissioner may limit consideration to only those applicants who have indicated availability for the geographic location, employment condition, travel status, and job grouping of the vacant position and who have indicated possession of the minimum qualifications for the vacant position. In addition, the commissioner may limit consideration to only those applicants who are:

(1) employees on a layoff list for the job class of the position. The appointing authority shall consider those names as provided in collective bargaining agreements and plans established under section 43A.18;

(2) current employees of the civil service, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association, or employees of one or more agencies or organizational units under them;

(3) former permanent and probationary employees of the job class who separated from the class in good standing within the past four years and have indicated availability for reinstatement to the class; or

(4) current permanent and probationary employees who have indicated availability for transfer or demotion to the job class.

Subd. 6b. REFUSAL TO CONSIDER AN APPLICANT. The commissioner may remove from consideration any applicant who:

(1) has been dismissed for cause from the public service;

(2) has directly or indirectly given or promised to give anything of value to any person in connection with the selection process, appointment, or proposed appointment;

(3) has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in the application or selection process or in securing eligibility or appointment; or

(4) has a prior conviction of a crime directly related to the vacant position provided the refusal is consistent with the requirements and procedures of chapter 364.

When the commissioner refuses to consider an applicant, the commissioner shall, upon request of the applicant, furnish the applicant a statement of the reasons for the refusal. Upon receipt of relevant information, the commissioner shall reconsider the refusal and may restore the applicant to consideration.

Subd. 7. EXAMINATION SELECTION PROCESS ACCOMMODATIONS. Upon request, the commissioner or appointing authority shall provide examination selection process accommodations to a candidate ~~an~~ applicant with a disability that

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does not prevent performance of the duties of the class position. The accommodations must provide an opportunity to fairly ~~examine~~ assess the ability of the candidate applicant to perform the duties of the class position notwithstanding the disability but must preserve, to the extent feasible, the validity of the examination selection process and equitable comparison of examination scores results with the results of competitors without disabilities.

Subd. 8. ELIGIBILITY FOR QUALIFIED DISABLED EXAMINATIONS.

The commissioner shall ~~establish alternative examination methods to assess the qualifications of applicants for a competitive open or competitive promotional examination who have a disability that does not prevent performance of the duties of the class but that cannot be accommodated in the regular examination process.~~ Alternative examination methods offered must allow candidates for competitive open and competitive promotional exams to demonstrate possession of the same knowledge, skills, and abilities essential to satisfactory performance in the job class without compromising inferences about other candidates' qualifications.

Sec. 13. Minnesota Statutes 2002, section 43A.11, subdivision 5, is amended to read:

Subd. 5. DISABLED VETERAN; DEFINITIONS. For the purpose of the preference to be used in securing appointment from a competitive open examination applicant pool, "disabled veteran" means a person who has a compensable service connected disability as adjudicated by the United States Veterans Administration, or by the retirement board of one of the several branches of the armed forces, which disability is existing at the time preference is claimed. For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a 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.

Sec. 14. Minnesota Statutes 2002, section 43A.11, subdivision 7, is amended to read:

Subd. 7. RANKING OF VETERANS. An eligible with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a nonveteran with the same rating. Applicants who meet the minimum qualifications for a vacant position and claim disabled veteran's preference shall be listed in the applicant pool ahead of all other applicants. Applicants who meet the minimum qualifications for a vacant position and claim nondisabled veteran's preference shall be listed in the applicant pool after those claiming disabled veteran's preference and ahead of nonveterans.

Sec. 15. Minnesota Statutes 2002, section 43A.11, subdivision 8, is amended to read:

Subd. 8. NOTIFICATION. A governmental agency The commissioner or an appointing authority, when notifying eligibles applicants that they have passed examinations been accepted into the state's selection process, shall show the final

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examination ratings preference credits and shall notify eligible applicants that they may elect to use veteran's preference to augment passing ratings.

Sec. 16. Minnesota Statutes 2002, section 43A.11, subdivision 9, is amended to read:

Subd. 9. **REJECTION; EXPLANATION.** If the appointing authority rejects a certified eligible member of the finalist pool who has received claimed veteran's preference, the appointing authority shall notify the eligible finalist in writing of the reasons for the rejection.

Sec. 17. **[43A.121] RANKING OF THE APPLICANT POOL.**

Applicants referred from a layoff list shall be ranked as provided in the collective bargaining agreement or plan established under section 43A.18, under which the layoff list was established. All other names in an applicant pool shall be ranked according to the veteran's preference provisions of section 43A.11, subdivision 7, and then in descending order of the number of skill matches for the vacant position. If any ties in rank remain, those names shall appear in alphabetical order.

Sec. 18. Minnesota Statutes 2002, section 43A.15, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Positions in the classified service may be filled other than by appointment from eligible lists a finalist pool only as provided in this section or other law, provided that appointments made pursuant to subdivisions 5, 6, 9, 10, 11, and 12, and 13 shall be subject to applicable provisions of collective bargaining agreements.

Sec. 19. Minnesota Statutes 2002, section 43A.15, subdivision 2, is amended to read:

Subd. 2. **EMERGENCY APPOINTMENTS.** An appointing authority may make an emergency appointment for up to ~~30~~ 45 working days. ~~If necessary, the commissioner may grant an extension of the emergency appointment for 15 additional working days.~~ No person may be employed in any one agency on an emergency basis for more than 45 working days in any 12-month period.

Sec. 20. Minnesota Statutes 2002, section 43A.15, subdivision 4, is amended to read:

Subd. 4. **PROVISIONAL APPOINTMENTS.** The commissioner may authorize an appointing authority to make a provisional appointment if there is an urgent reason for filling a vacancy and no person on an incomplete certification applicant is suitable or available for appointment: and

No the person shall to be provisionally appointed unless the person has passed an appropriate qualifying examination or is qualified in all respects except for completion of a licensure or certification requirement. To the extent possible, the commissioner shall ensure that provisional appointments are kept to a minimum.

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No person shall be employed on a provisional basis for more than six months unless the commissioner grants an extension to a maximum of 12 months in the best interest of the state. No extension may be granted beyond 12 months except for persons provisionally appointed to physician positions or other positions requiring licensure or certification where there is a lack of eligible applicants and the provisional appointee is continuing to work to complete the licensure or certification requirement.

At the request of an appointing authority, the commissioner may authorize the probationary appointment of a provisional appointee who has performed satisfactorily for at least 60 days and has completed the licensure or certification requirement.

Sec. 21. Minnesota Statutes 2002, section 43A.15, subdivision 7, is amended to read:

Subd. 7. **APPOINTMENTS FOR UNCLASSIFIED INCUMBENTS OF NEWLY CLASSIFIED POSITIONS.** The commissioner may authorize the probationary appointment of an incumbent who has passed a qualifying examination selection process and who has served at least one year in an unclassified position which has been placed in the classified service by proper authority.

Sec. 22. Minnesota Statutes 2002, section 43A.15, subdivision 10, is amended to read:

Subd. 10. **ROUTINE SERVICE AND ENTRY CLERICAL APPOINTMENTS.** The commissioner may authorize the administration of a qualifying selection process if a class 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 also authorize the administration of qualifying skill tests for entry level clerical positions as an alternative to certification from an eligible list as provided in section 43A.13.

Sec. 23. Minnesota Statutes 2003 Supplement, section 43A.15, subdivision 14, is amended to read:

Subd. 14. **ON-THE-JOB DEMONSTRATION EXAMINATION PROCESS AND APPOINTMENT.** The commissioner shall establish qualifying procedures for candidates applicants whose disabilities are of such a severe nature that the candidates applicants are unable to demonstrate their abilities in competitive and qualified disabled examination processes the selection process. The qualifying procedures must consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the disabled person has the option of being paid or unpaid. Up to three persons with severe disabilities and their job coach may be allowed to demonstrate their job competence as a unit through the on-the-job trial work experience examination selection procedure. This work experience on-the-job demonstration process must be limited to candidates for appointment, promotion, or transfer applicants for which whom there is no reasonable accommodation in the examination selection process.

The commissioner may authorize the probationary appointment of a candidate an applicant based on the request of the appointing authority that documents that the

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a candidate applicant has successfully demonstrated qualifications for the position through completion of an on-the-job trial work experience. The implementation of this subdivision may not be deemed a violation of chapter 43A or 363A.

Sec. 24. Minnesota Statutes 2002, section 43A.15, subdivision 15, is amended to read:

Subd. 15. **REINSTATEMENT.** An appointing authority may directly reinstate a person who is a former permanent or probationary employee of the job class, within four years of separation from the class. The four-year limitation does not apply to former permanent or probationary employees of the class who are receiving disability benefits under a state retirement plan.

Sec. 25. Minnesota Statutes 2002, section 43A.16, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** All unlimited appointments to positions in the classified service except as provided in this subdivision shall be for a probationary period the duration of which shall be determined through collective bargaining agreements or plans established pursuant to section 43A.18 but which shall not be less than 30 days of full-time equivalent service nor more than two years of full-time equivalent service. An appointing authority may require a probationary period for transfers, ~~reemployments~~, reinstatements, voluntary demotions, and appointments from layoff lists of former employees of a different appointing authority. For employees in a bargaining unit as defined in section 179A.10 the requirement of such a probationary period shall be subject to applicable provisions of collective bargaining agreements.

Sec. 26. Minnesota Statutes 2002, section 43A.191, subdivision 3, is amended to read:

Subd. 3. **AUDITS; SANCTIONS AND INCENTIVES.** (a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements.

(b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the Finance Committee of the senate, the Ways and Means Committee of the house of representatives, the Governmental Operations Committees of both houses of the legislature, and the Legislative Coordinating Commission on Employee Relations. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to ~~13~~ 7, 10, and 12, and cover each agency's rate of compliance with affirmative action requirements.

(c) An agency that does not meet its hiring goals must justify its nonaffirmative action hires in competitive and noncompetitive appointments according to criteria issued by the Department of Employee Relations. "Missed opportunity" includes failure to justify a nonaffirmative action hire. An agency must have 25 percent or less missed opportunities in competitive appointments and 25 percent or less missed opportunities in appointments made under sections 43A.08, subdivisions 1, clauses (9),

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(11), and (16); and 2a; and 43A.15, subdivisions 3 to 7, 10, 12, and 13. In addition, an agency shall:

(1) demonstrate a good faith effort to recruit protected group members by following an active recruitment plan;

(2) implement a coordinated retention plan; and

(3) have an established complaint resolution procedure.

(d) The commissioner shall develop reporting standards and procedures for measuring compliance.

(e) An agency is encouraged to develop other innovative ways to promote awareness, acceptance, and appreciation for diversity and affirmative action. These innovations will be considered when evaluating an agency's compliance with this section.

(f) An agency not in compliance with affirmative action requirements of this section must identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit program and resource reallocation proposals to the commissioner for approval. An agency must submit these proposals within 120 days of being notified by the commissioner that it is out of compliance with affirmative action requirements. The commissioner shall monitor quarterly the affirmative action programs of an agency found to be out of compliance.

(g) The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan.

Sec. 27. Minnesota Statutes 2002, section 43A.36, subdivision 1, is amended to read:

Subdivision 1. **COOPERATION; STATE AGENCIES.** The commissioner may delegate administrative functions associated with the duties of the commissioner to appointing authorities who have the capability to perform such functions when the commissioner determines that it is in the best interests of the state civil service. The commissioner shall consult with agencies and agencies shall cooperate as appropriate in implementation of this chapter.

The commissioner, in conjunction with appointing authorities, shall analyze and assess current and future human resource requirements of the civil service and coordinate personnel actions throughout the civil service to meet the requirements. The commissioner shall permit appointing authorities to use eligible lists in making appointments to positions in the unclassified service and shall provide recruiting assistance and make the applicant database available to appointing authorities to use in making appointments to positions in the unclassified service.

The head of each agency in the executive branch shall designate an agency personnel officer. The agency personnel officer shall be accountable to the agency head for all personnel functions prescribed by laws, rules, collective bargaining agreements,

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

The head of each agency in the executive branch shall designate an affirmative action officer who shall have primary responsibility for the administration of the agency's affirmative action plan. The officer shall report directly to the head of the agency on affirmative action matters.

Sec. 28. Minnesota Statutes 2002, section 43A.39, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS; PENALTIES.** All employees shall comply with and aid in all proper ways the enforcement of the provisions of this chapter. No employee or any other person shall intentionally:

(a) Make any false oral or written statement, mark, rating or report concerning any application, ~~examination, certification selection process,~~ or appointment made under provisions of this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter;

(b) Directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in obtaining, a position in the civil service;

(c) Defeat, deceive, or obstruct any person in exercising rights to ~~examination, eligibility, certification or appointment~~ under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to appointment, advancement or retention in the classified service;

(d) Violate the provisions of section 43A.37 or 43A.38; or

(e) If in the classified service, engage in activities prohibited by section 43A.32.

Sec. 29. Minnesota Statutes 2002, section 197.455, is amended to read:

197.455 ~~STATE LAW APPLICABLE~~ VETERAN'S PREFERENCE APPLIED.

Subdivision 1. **APPLICATION.** ~~The provisions of section 43A.11 granting preference to veterans in the state civil service~~ This section shall also govern preference of a veteran under the civil service laws, charter provisions, ordinances, rules or regulations of a county, city, town, school district, or other municipality or political subdivision of this state, except that a notice of rejection stating the reasons for rejection of a qualified veteran shall be filed with the appropriate local personnel officer. Any provision in a law, charter, ordinance, rule or regulation contrary to the applicable provisions of this section 43A.11 is void to the extent of such inconsistency. Sections 197.46 to 197.48 shall not apply to state civil service.

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Subd. 2. **CREATION.** Recognizing that training and experience in the military services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily assessed by examination, a veteran's preference shall be available to a veteran as defined in section 197.447.

Subd. 3. **RESTRICTIONS.** Veteran's preference credit under this section may not be used by any veteran who is currently receiving or is eligible to receive a monthly veteran's pension based exclusively on length of military service.

Subd. 4. **NONDISABLED VETERAN'S CREDIT.** There shall be added to the competitive open examination rating of a nondisabled veteran, who so elects, a credit of five points provided that the veteran obtained a passing rating on the examination without the addition of the credit points.

Subd. 5. **DISABLED VETERAN'S CREDIT.** There shall be added to the competitive open examination rating of a disabled veteran, who so elects, a credit of ten points provided that the veteran obtained a passing rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination rating of a disabled veteran, who so elects, a credit of five points provided that (1) the veteran obtained a passing rating on the examination without the addition of the credit points; and (2) the veteran is applying for a first promotion after securing public employment.

Subd. 6. **DISABLED VETERAN; DEFINITIONS.** For the purpose of the preference to be used in securing appointment from a competitive open examination, "disabled veteran" means a person who has a compensable service-connected disability as adjudicated by the United States Veterans Administration, or by the retirement board of one of the several branches of the armed forces, which disability is existing at the time preference is claimed. For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a 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.

Subd. 7. **PREFERENCE FOR SPOUSES.** A preference available pursuant to this section may be used by the surviving spouse of a deceased veteran and by the spouse of a disabled veteran who because of the disability is unable to qualify.

Subd. 8. **RANKING OF VETERANS.** An eligible with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a nonveteran with the same rating.

Subd. 9. **NOTIFICATION.** A governmental agency, when notifying eligibles that they have passed examinations, shall show the final examination ratings and preference credits and shall notify eligibles that they may elect to use veteran's preference to augment passing ratings.

Subd. 10. **REJECTION; EXPLANATION.** If the appointing authority rejects a certified eligible who has received veteran's preference, the appointing authority shall

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notify the eligible in writing of the reasons for the rejection and file the notice with the appropriate local personnel officer.

Sec. 30. LEGISLATIVE STUDY.

The Legislative Coordinating Commission shall study and report to the governmental operations and local government committees of both houses of the legislature by January 15, 2005, on the impacts of the political subdivision compensation limit on local units of government. The study must, at a minimum:

(1) examine local government compensation limits and comparative salary data in other states;

(2) assess the impacts of the local government compensation limit on salary structures, recruitment, and retention; and

(3) evaluate alternatives to the compensation limit, including elimination of the limit.

In developing this report, the commission must consult with the commissioner of employee relations and local government associations, including the Association of Metropolitan Municipalities, Association of Minnesota Counties, League of Minnesota Cities, Metropolitan Inter-County Association, Municipal Legislative Commission, and the Minnesota City/County Management Association.

Sec. 31. REPEALER.

(a) Minnesota Statutes 2002, sections 43A.02, subdivisions 7, 8, 15, 16, 19, 20, and 37; 43A.11, subdivisions 3 and 4; 43A.12; 43A.13, subdivisions 1, 2, 3, 4, 5, 6, and 8; and 43A.15, subdivisions 8, 9, and 11; and Minnesota Statutes 2003 Supplement, section 43A.13, subdivision 7, are repealed.

(b) Minnesota Rules, parts 3900.3300; 3900.6100; 3900.6300; 3900.6400; 3900.6500; 3900.6600; 3900.7100; 3900.7200; 3900.7300; 3900.7400; 3900.8500; 3900.8600; and 3900.8800, are repealed.

Presented to the governor May 14, 2004

Signed by the governor May 18, 2004, 3:20 p.m.

CHAPTER 208—H.F.No. 2187

An act relating to commerce; requiring debt collection agency employees to be registered instead of licensed; amending Minnesota Statutes 2002, sections 332.33; 332.335, subdivision 1; 332.35; 332.37; 332.395; 332.40; 332.41; 332.42; 332.43, subdivision 1.

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

New language is indicated by underline, deletions by ~~strikeout~~.