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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4309

02/26/2024 Authored by Berg, Lillie, Jordan, Brand, Huot and others
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; modifying the classification treatment of temporary
1.3 positions for purposes of the Public Labor Relations Act; amending Minnesota
1.4 Statutes 2022, sections 43A.08, subdivisions 2a, 3, by adding a subdivision; 43A.15,
1.5 subdivision 7; 116P.09, subdivision 4; Minnesota Statutes 2023 Supplement,
1.6 section 43A.08, subdivisions 1, 1a.

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

1.8 Section 1. Minnesota Statutes 2023 Supplement, section 43A.08, subdivision 1, is amended
1.9 to read:

1.10 Subdivision 1. Unclassified positions. Unclassified positions are held by employees
1.11 who are:

1.12 (1) chosen by election or appointed to fill an elective office;

1.13 (2) heads of agencies required by law to be appointed by the governor or other elective
1.14 officers, and the executive or administrative heads of departments, bureaus, divisions, and
1.15 institutions specifically established by law in the unclassified service;

1.16 (3) deputy and assistant agency heads and one confidential secretary in the agencies
1.17 listed in subdivision 1a;

1.18 (4) the confidential secretary to each of the elective officers of this state and, for the
1.19 secretary of state and state auditor, an additional deputy, clerk, or employee;

1.20 (5) intermittent help employed by the commissioner of public safety to assist in the
1.21 issuance of vehicle licenses;

2.1 (6) employees in the offices of the governor and of the lieutenant governor and one
2.2 confidential employee for the governor in the Office of the Adjutant General;

2.3 (7) employees of the Washington, D.C., office of the state of Minnesota;

2.4 (8) employees of the legislature and of legislative committees or commissions; provided
2.5 that employees of the Legislative Audit Commission, except for the legislative auditor, the
2.6 deputy legislative auditors, and their confidential secretaries, shall be employees in the
2.7 classified service;

2.8 (9) presidents, vice-presidents, deans, and other managers ~~and professionals~~ in academic
2.9 and academic support programs, administrative or service faculty, teachers, research
2.10 assistants, and student employees eligible under terms of the federal Economic Opportunity
2.11 Act work study program in the Perpich Center for Arts Education and the Minnesota State
2.12 Colleges and Universities, but not the custodial, clerical, or maintenance employees, or any
2.13 professional or managerial employee performing duties in connection with the business
2.14 administration of these institutions;

2.15 (10) officers and enlisted persons in the National Guard;

2.16 (11) attorneys, legal assistants, and three confidential employees appointed by the attorney
2.17 general or employed with the attorney general's authorization;

2.18 (12) judges and all employees of the judicial branch, referees, receivers, jurors, and
2.19 notaries public, except referees and adjusters employed by the Department of Labor and
2.20 Industry;

2.21 (13) members of the State Patrol; provided that selection and appointment of State Patrol
2.22 troopers must be made in accordance with applicable laws governing the classified service;

2.23 (14) examination monitors and intermittent training instructors employed by the
2.24 Departments of Management and Budget and Commerce and by professional examining
2.25 boards and intermittent staff employed by the technical colleges for the administration of
2.26 practical skills tests and for the staging of instructional demonstrations;

2.27 (15) student workers;

2.28 (16) executive directors or executive secretaries appointed by and reporting to any
2.29 policy-making board or commission established by statute;

2.30 (17) employees unclassified pursuant to other statutory authority;

2.31 (18) intermittent help employed by the commissioner of agriculture to perform duties
2.32 relating to pesticides, fertilizer, and seed regulation;

3.1 (19) the administrators and the deputy administrators at the State Academies for the
3.2 Deaf and the Blind; and

3.3 (20) chief executive officers in the Department of Human Services.

3.4 **EFFECTIVE DATE.** This section is effective August 1, 2024.

3.5 Sec. 2. Minnesota Statutes 2023 Supplement, section 43A.08, subdivision 1a, is amended
3.6 to read:

3.7 Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following
3.8 agencies, with express mutual agreement by the exclusive representative under section
3.9 179A.10, subdivision 2, may designate additional unclassified positions according to this
3.10 subdivision: the Departments of Administration; Agriculture; Children, Youth, and Families;
3.11 Commerce; Corrections; Direct Care and Treatment; Education; Employment and Economic
3.12 Development; Explore Minnesota Tourism; Management and Budget; Health; Human
3.13 Rights; Human Services; Labor and Industry; Natural Resources; Public Safety; Revenue;
3.14 Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies;
3.15 the State Lottery; the State Board of Investment; the Office of Administrative Hearings; the
3.16 Department of Information Technology Services; the Offices of the Attorney General,
3.17 Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the
3.18 Minnesota Office of Higher Education; the Perpich Center for Arts Education; and the
3.19 Minnesota Zoological Board.

3.20 A position designated by an appointing authority according to this subdivision must
3.21 meet the following standards and criteria:

3.22 (1) the designation of the position would not be contrary to other law relating specifically
3.23 to that agency;

3.24 (2) the person occupying the position would report directly to the agency head or deputy
3.25 agency head and would be designated as part of the agency head's management team;

3.26 (3) the duties of the position would involve significant discretion and substantial
3.27 involvement in the development, interpretation, and implementation of agency policy;

3.28 (4) the duties of the position would not require primarily personnel, accounting, or other
3.29 technical expertise where continuity in the position would be important;

3.30 (5) there would be a need for the person occupying the position to be accountable to,
3.31 loyal to, and compatible with, the governor and the agency head, the employing statutory
3.32 board or commission, or the employing constitutional officer;

4.1 (6) the position would be at the level of division or bureau director or assistant to the
4.2 agency head; and

4.3 (7) the commissioner has approved the designation as being consistent with the standards
4.4 and criteria in this subdivision.

4.5 **EFFECTIVE DATE.** This section is effective August 1, 2024.

4.6 Sec. 3. Minnesota Statutes 2022, section 43A.08, is amended by adding a subdivision to
4.7 read:

4.8 **Subd. 1c. Rights of unclassified employees.** Unclassified employees covered by an
4.9 exclusive representative under section 179A.10, subdivision 2, shall be entitled to the same
4.10 layoff, recall, grievance, and arbitration rights as employees serving in the classified service,
4.11 as outlined in their respective collective bargaining agreements.

4.12 **EFFECTIVE DATE.** This section is effective August 1, 2024.

4.13 Sec. 4. Minnesota Statutes 2022, section 43A.08, subdivision 2a, is amended to read:

4.14 **Subd. 2a. Temporary unclassified positions.** (a) The commissioner, upon request of
4.15 an appointing authority, may authorize the temporary designation of a position in the
4.16 unclassified service. The commissioner may make this authorization only for professional,
4.17 managerial or supervisory positions which are fully anticipated to be of limited duration.

4.18 **(b) Except by mutual agreement with the exclusive representative, employees serving**
4.19 **in a temporary unclassified position for longer than three years shall be converted into the**
4.20 **classified service.**

4.21 **(c) Employees serving in temporary unclassified positions shall be entitled to the same**
4.22 **layoff, recall, grievance, and arbitration rights as employees serving in the classified service.**

4.23 **EFFECTIVE DATE.** This section is effective August 1, 2024.

4.24 Sec. 5. Minnesota Statutes 2022, section 43A.08, subdivision 3, is amended to read:

4.25 **Subd. 3. Unclassified titles; salary rates and ranges; investigations.** Except for those
4.26 positions listed in section 43A.18, subdivisions 4 and 6, when a new position is to be
4.27 established in the unclassified service, the commissioner shall compare the position to a
4.28 class in the classified service if a comparable class exists or if not, establish a salary rate or
4.29 range and official title for the position.

5.1 The commissioner shall independently or upon request of an appointing authority or
 5.2 employee investigate the duties of a position unclassified under provisions of subdivision
 5.3 1a or rule. If the commissioner determines the position is incorrectly placed in the unclassified
 5.4 service, or if the duties for a position are substantively similar to the duties for an existing
 5.5 position in the classified service, the commissioner shall place the position in the classified
 5.6 service. If the commissioner determines the position is improperly compared or assigned
 5.7 to an inappropriate salary range, the commissioner shall recompare the position, change the
 5.8 title or establish a new title or reassign the position to a different salary rate or range.

5.9 If a new title is established for the position or if the position is reassigned to a different
 5.10 salary rate or range and the position will be covered by a bargaining unit under the provisions
 5.11 of section 179A.10, and if there is an applicable provision in a collective bargaining
 5.12 agreement, the commissioner shall establish the salary rate or range pursuant to the collective
 5.13 bargaining agreement.

5.14 **EFFECTIVE DATE.** This section is effective August 1, 2024.

5.15 Sec. 6. Minnesota Statutes 2022, section 43A.15, subdivision 7, is amended to read:

5.16 Subd. 7. **Appointments for unclassified incumbents of newly classified positions.** The
 5.17 commissioner ~~may~~ shall authorize the ~~probationary~~ appointment of an incumbent who has
 5.18 passed a qualifying selection process and who has served at least one year in an unclassified
 5.19 position which has been placed in the classified service by proper authority. Incumbents of
 5.20 unclassified positions approved for conversion into the classified civil service shall not be
 5.21 required to serve an additional probationary period.

5.22 **EFFECTIVE DATE.** This section is effective August 1, 2024.

5.23 Sec. 7. Minnesota Statutes 2022, section 116P.09, subdivision 4, is amended to read:

5.24 Subd. 4. **Personnel.** Persons who are employed by a state agency to work on a project
 5.25 and are paid by an appropriation from the trust fund are in the ~~unclassified~~ classified civil
 5.26 service, and their continued employment is contingent upon the availability of money from
 5.27 the appropriation. When the appropriation has been spent, their positions must be canceled
 5.28 and the approved complement of the agency reduced accordingly. Part-time employment
 5.29 of persons for a project is authorized. The use of classified employees is ~~authorized~~ required
 5.30 when approved as part of the work program required by section 116P.05, subdivision 2,
 5.31 paragraph (b).

5.32 **EFFECTIVE DATE.** This section is effective August 1, 2024.