

Civil Service

CHAPTER 43

DEPARTMENT OF CIVIL SERVICE

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43.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purposes of this chapter, be given the meanings subjoined to them.

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

Subd. 3. **Effective date.** The "effective date" of this chapter shall be the date that it is approved by the governor or the date it becomes effective without his approval.

Subd. 4. **All persons holding offices or employments in the classified service on the effective date of this chapter.** The words "all persons holding offices or employments in the classified service on the effective date of this chapter," in addition to their ordinary meaning, mean and include all persons who have been employed by the state, which employment need not be continuous, for a total of five years or more prior to the effective date of this chapter, and who are on leave of absence on the effective date of this chapter.

Subd. 5. **Commissioner.** The word "commissioner" means the commissioner of administration.

Subd. 6. **Department.** The word "department" means the department of civil service.

Subd. 7. **Board.** The word "board" means the civil service board.

Subd. 8. **Director.** The word "director" means the director of the state civil service.

Subd. 9. **Rate of pay, salary.** "Rate of pay" means rate of pay for a work month, and "salary" means compensation for a work month.

Subd. 10. **Position.** The word "position" means an office, position, or employment.

Subd. 11. **Appointing authority.** "Appointing authority" means the appointing officer or authority of any state office or department.

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. **Reallocation.** "Reallocation" means a reassignment, 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, on the basis of significant changes in the kind, difficulty, or responsibility of the work performed in such position.

[1939 c. 441 s. 34; 1945 c. 598 s. 1; 1947 c. 604 s. 1; 1949 c. 646 s. 1] (254-82)

43.02 COMPOSITION OF DEPARTMENT. The department of civil service shall consist of the civil service board, the director of the state civil service, and all officers and employees appointed by the director pursuant to law.

[1939 c. 441 s. 2] (53-41a)

43.03 CIVIL SERVICE BOARD CREATED. The civil service board of the State of Minnesota is hereby created and established. It shall consist of three members, who shall be appointed by the governor, with the consent of the senate, without regard to party affiliation. No member of the board shall hold any other public office or public employment, the office of notary public or a military office excepted, and no person shall be appointed as a member of the board who has held a paid position in a political party within the two years immediately preceding his appointment. In appointing the first three members of the board, the governor shall designate one member for a term expiring February 1, 1941, a second member for a term expiring February 1, 1943, and a third member for a term expiring February 1, 1945. The terms of all subsequent members of the board shall be six years and until their successors are appointed and have qualified. The governor may remove a member of the board only upon written charges, after the member has been given a copy of the charges against him and an opportunity to be heard publicly on the charges before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state. Vacancies in the membership of the board shall be filled by the governor, with the consent of the senate. The term of a member appointed to fill a vacancy shall be for the remainder of the unexpired term of the member he is appointed to succeed, and until his successor is appointed and has qualified. Each member shall take an oath of office before entering upon the duties of office. The chairman of the board shall be chosen by the members of the board from among their own number under such rules as they shall make. The chairman shall have the powers of a presiding officer.

The civil service board shall maintain its principal office in such space as shall be provided for it by the proper state officials and shall maintain its records at this principal office, and shall hold its regular meetings there, but special meetings may be held in other cities in the state when, in the discretion of the chairman, it is necessary to meet in some other city than the capital city of the state in the performance of the duties of the board. Meetings of the board shall be open to the public, and no meetings or hearings of the board shall be held unless at least two members of the board are present. The director of the state civil service shall act as the secretary of the board. The board shall keep records and minutes of its business and official actions, and these records and minutes shall be public records open to public inspection, subject to such rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the civil service board, to assign suitable office space for executing the duties charged to it and to the director of the state civil service.

Each member of the board shall be paid \$15 per day for each day actually devoted to duties as a member of the board, but in no case shall any member be paid more than \$450 in any one year; provided, that this limitation shall not apply to payments on account of expenses and shall not apply during the first two

years of the board's service. Members of the board shall be paid for expenses in travel to and from meetings and for necessary expenses incurred during meetings of the board.

[1939 c. 441 s. 3] (254-51)

43.04 DIRECTOR, HOW SELECTED; SALARY. The office of the director of the state civil service is hereby created and established. The director of the state civil service shall be appointed by the civil service board on the basis of merit and fitness, after an open, competitive examination, open to qualified persons without regard to residence and without regard to the provisions of section 43.30, or the provisions of sections 197.45 to 197.48. Within 30 days after the first members of the civil service board have been appointed and have qualified, and thereafter whenever a vacancy exists in the office of the director of the state civil service, the civil service board shall appoint an examining committee of three persons to examine the qualifications of all persons applying for appointment to the office of director of the state civil service. At least two members of the examining committee shall be public personnel administrators or public personnel specialists of recognized standing, at least one of whom shall be a non-resident of the state. As soon as practicable after its appointment, the examining committee shall examine applicants for the position of director of the state civil service and certify to the civil service board the names of the three persons rated highest in the competitive tests and found by the committee to possess the necessary qualifications for the office of director of the state civil service. The civil service board shall then appoint one of the persons so certified to the office of director of the state civil service and fix his annual salary at a sum not in excess of \$8,000. No person who has not been examined and certified by an examining committee, as herein provided for, shall be appointed to the office of director of the state civil service. The civil service board shall fix the compensation and authorize the payment of expenses of members of the examining committee provided for in this section.

The director of the state civil service shall be in the classified service and shall not be removed by the civil service board except under written charges and after a public hearing by the board.

[1939 c. 441 s. 4; 1949 c. 739 s. 5] (254-52)

43.05 DUTIES AND POWERS OF DIRECTOR. Subdivision 1. **General duties.** The director of the state civil service shall be the executive and administrative head of the state department of civil service and shall supervise and control all examinations and the department. He shall act as the board's adviser on all matters pertaining to the civil service of this state.

Subd. 2. **Powers and duties.** It shall be the duty of the director and he shall have power:

- (1) To attend all meetings of the board;
- (2) To prepare and recommend to the board rules and regulations 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 officers and employees subject to the provisions of this chapter; the manner of completing appointments and promotions; rejection of eligible candidates; competitive examinations; creation of eligible lists, with successful candidates ranked according to their rating in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations, and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment;

- (3) To appoint temporary and permanent examiners, including a chief examiner, clerks, stenographers, and such other employees and officers as are necessary to carry out the provisions of this chapter; these employees and officers shall be chosen in accordance with, and shall be subject to, the provisions of this chapter;

- (4) To keep in the office of the department of civil service an official roster of the state civil service showing the employment history of each and every person who has been appointed to, employed, promoted, reduced, or reinstated in any position in the service; which roster shall show, in connection with each name, the date of appointment, employment, promotion, reduction, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, sick or annual leaves, and separations from the service; and the director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with the roster;

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

(6) To make certifications for appointment within the classified service, in accordance with the provisions of this chapter;

(7) To make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed hereunder;

(8) To make a report and submit the same to the civil service board not later than October first each year; and

(9) To discharge such other duties as are imposed upon him by this chapter.

[1939 c. 441 s. 5] (254-53)

43.06 DUTIES AND POWERS OF BOARD. It shall be the duty of the civil service board and it shall have power:

(1) To approve, modify, reject, or approve as modified, rules and regulations and amendments thereto prepared and recommended by the director for carrying out the purposes of this chapter; these rules and regulations and any amendments thereto shall not be approved by the board until after a public hearing by the board, of which two weeks' published notice shall have been given that a hearing, at a specified place and time, is to be held upon the proposed rules and regulations, and that any citizen, officer, or employee of the state may attend and participate in the hearing; copies of all rules and regulations shall be sent to all state appointing officers, and printed copies of these rules and regulations and amendments thereto shall be prepared for public distribution;

(2) After public hearing, to approve, modify, reject, or approve as modified, plans for the classification of positions in the state civil service prepared and recommended by the director of the state civil service;

(3) After public hearing, to approve, modify, reject, or approve as modified, compensation schedules for positions in the state civil service prepared and recommended by the director for submission to the commissioner;

(4) To make investigations, either at the discretion of the governor, or upon petition of a citizen for just cause, or of its own motion, concerning the enforcement and effect of this chapter;

(5) To prepare and transmit to the governor, not later than November 15th, each year, a report of the department of civil service;

(6) To conduct hearings and pass upon complaints by or against any officer or employee in the classified service for the purpose of demotion, suspension, or removal of the officer or employee, in accordance with the provisions of this chapter;

(7) To hear and pass upon such other matters as the director of the state civil service may, from time to time, bring before the board for determination; and

(8) To discharge such other duties as are imposed upon it by this chapter.

[1939 c. 441 s. 6] (254-54)

43.07 TESTIMONIAL POWERS; WITNESSES; FEES. Subdivision 1. **Subpoenas, issuance.** The civil service board, or the director of the civil service when authorized by a majority vote of the board, 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 sections 597.01 to 597.18 and 600.09. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board and the director. The board, or any member thereof, or the director when authorized by the board, may administer oaths and take testimony. The board or the director 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, or by the director when authorized 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, or of the director when authorized by 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 or the director 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 or the director 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 and the director, in conducting hearings and investigations in accordance with the provisions of this chapter, shall not be bound by the technical rules of evidence.

[1939 c. 441 s. 7] (254-55)

43.08 SALARIES; SCHEDULES. The salaries of the members of the staff of the state department of civil service shall be fixed in accordance with the salary schedules established as authorized by this chapter; provided, that, pending the establishment and adoption of the compensation schedules, their salaries shall be fixed by the civil service board, subject to the approval of the department of administration. The salary of the director shall be not less than \$5,000 nor more than \$7,000 per year payable semimonthly.

[1939 c. 441 s. 8] (254-56)

43.09 DIVISIONS; 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 service comprises positions held by state officers or employees who are:

- (1) Chosen by election or appointed to fill an elective office;
- (2) Heads of departments required by law to be appointed by the governor or other elective officers, except the railroad and warehouse commission, 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, nor to the director of the division of vocational rehabilitation in the department of education;
- (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) All deputy registrars of motor vehicles and seasonal help employed by the registrar and his deputies to assist in the issuance of motor vehicle licenses;
- (5) One executive secretary and five other confidential employees in the office of the 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;
- (7) Teachers, research assistants, student employees on less than half-time pay basis, presidents, deans, and administrative officers in the teachers 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 men in the national guard and the naval militia;
- (9) Election officers;
- (10) Persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (11) Persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination, or installation;
- (12) Deputy attorneys general, assistant attorneys general, legal assistants, examiners, three confidential employees, and special counsel to state departments appointed by the attorney general or employed with his authorization;
- (13) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the industrial commission;

(14) Patient and inmate help in state charitable, penal, and correctional institutions;

(15) State highway patrolmen now operating under the provisions of sections 161.07 to 161.12; provided, that with respect to the method of selection and appointment only, all state highway patrolmen who shall be appointed subsequent to the effective date of Laws 1939, Chapter 441, shall be selected and appointed in accordance with the provisions hereof relating to the classified service, but in all other respects the provisions of this chapter shall not apply to state highway patrolmen;

(16) The deputy commissioner of agriculture, dairy, and food;

(17) Persons, not exceeding one, appointed or employed by the state treasurer, for the purpose of receiving and safekeeping assets deposited and maintained with the state treasurer, pursuant to Laws 1943, Chapter 591, and whose salary or compensation is to be reimbursed to the state under said act.

Subd. 3. **Labor service.** All positions involving unskilled labor shall constitute a labor service. The civil service board 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. Such rules shall provide, among other things, for: (1) certification of the entire list of eligibles, which list may be supplemented by eligibles certified by any appointing authority, to appointing authorities from which selection and appointment to positions in the labor service may be made without limitation; (2) layoff and reemployment of employees within the discretion of the appointing authority without recourse and without regard to factors considered in similar transactions in classified positions in other than the labor service; (3) simplified and expedient procedures of effecting and reporting personnel transactions concerning employees in the labor service; (4) temporary demotion and promotion of employees in the labor service as the needs of the service may require; (5) control, in the labor service, of leaves of absence with and without pay, sick leave and hours of employment by the appointing authority; provided that any proposed deviation from the rules on these subjects governing the classified service other than the labor service shall be subject to the approval of the civil service board; (6) appointments of special labor, under project or other unusual employment circumstances, to positions in the labor service; without regard to existing reinstatement, reemployment, and original entrance lists, for such periods of time as the needs of the service may require as approved by the civil service board; (7) certification as to physical fitness of eligibles by persons having knowledge of the facts. Any such appointments which shall be for a total period of not to exceed five months in any calendar year may be made by the appointing authority not subject to other approval, providing pay-roll notice of such employment is regularly made to the department of civil service.

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 civil service.

Subd. 6. **Act not applicable to Regents of University of Minnesota.** The state civil service 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.

[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] (254-57)

43.10 TENURE; FIVE-YEAR PROVISION; DISCHARGE; QUALIFYING; REMOVALS. Subdivision 1. **Holdovers.** All persons holding offices or employments in the classified service on April 22, 1939, who have been employed by the

state, which employment need not be continuous for a total of five years or more prior to April 22, 1939; all persons holding offices or employments in the classified service on April 22, 1939, who have been employed by the state, which employment need not be continuous for a total of four years or more and who have been on sick leave for at least one year prior to April 22, 1939; and persons holding offices or employments in the Minnesota State Employment Service (a division of the Industrial Commission, not, however, including the employees of the Unemployment Compensation division) who have taken and passed a civil service examination conducted by the United States Employment Service, and who are employed by the state on the effective date of Laws 1939, Chapter 441, shall automatically receive a civil service status without examination and shall be subject to and protected by the provisions of Laws 1939, Chapter 441, but shall first be subject to the following: (1) the general classification directed to be made by section 43.12; and (2) the six months' probationary period provided by section 43.21. The probationary period in the case of persons holding offices or employments covered by this section shall begin to run on the effective date of Laws 1945, Chapter 519. The words "employed by the state" as used in this subdivision shall include persons employed by joint federal and state agencies administering state and federal relief funds; and persons employed by the commissioner of banks in the liquidation of closed banks under the provisions of section 49.24, provided, that any status which may accrue under this section to employees of the Liquidation Unit of the Banking Department shall be limited to such Liquidation Unit and to state-wide reinstatement or reemployment status as defined in this chapter and the rules made hereunder.

Subd. 2. Qualifying examinations. Except as in this chapter otherwise specifically provided, all persons holding offices or employments in the classified service on August 1, 1939, exclusive of those persons covered by subdivision 1 hereof, shall be given a qualifying examination, as hereinafter provided. The director of civil service, subject to the rules and regulations of the board, shall, within two years from and after August 1, 1939, prepare and give once to all such incumbents of positions in the classified service a qualifying examination, which shall be non-competitive, practical, and involve only the duties of the position they occupied on August 1, 1939, or the position they occupy on the date the examination is given, whichever examination the officer or employee may elect to take.

If the aforementioned incumbents are found by this qualifying examination to have such ability and capacity as will enable them to perform the duties of the position for which they were examined in a reasonably efficient manner, they shall be given a civil service status subject to the provisions of section 43.21. If any of the aforementioned incumbents who are required by this chapter to take a qualifying examination shall fail to pass the same, they shall be removed from their positions at the expiration of three months following receipt of notice of failure to pass the examination. All persons who shall wilfully fail or refuse to take the examination when offered, without reasonable excuse, shall be removed from their positions immediately.

Subd. 3. Limitations on rights of employers and employees. Except as in this chapter otherwise specifically provided, until August 1, 1939, all persons holding offices or employments in the classified service may be laid off, suspended, transferred, discharged, promoted, reduced, or discharged and reinstated as temporary employees, at the will and pleasure of the authority employing them, subject, however, to such laws as are not expressly repealed by this chapter.

Except as in this chapter otherwise specifically provided, no person holding office or employment in the classified service by reason of any merit examination heretofore held pursuant to any law of this state or regulations or order of any department thereof, shall be deemed to have acquired a civil service status by reason thereof.

Subd. 4. Rights of employees in classified service. No person holding an office or employment in the classified service on August 1, 1939, who is required by this chapter to take a qualifying examination shall be laid off, suspended, discharged, or reduced in pay or position, except in accordance with the provisions of this chapter applicable to members of the classified service having a civil service status, until they have completed such qualifying examination and shall have been notified of the result thereof, or unless they shall refuse to take such qualifying examination.

Subd. 5. Seniority rights. In the event of necessary reductions in employment in any class or position, employees who have not acquired a permanent classi-

fied civil service status shall be laid off in accordance with their seniority within the department where they are employed.

Subd. 6. **New incumbents of positions.** Incumbents of positions placed in the classified service by amendments to the state civil service act shall take such status as would have accrued to them had such amendments been originally contained in this chapter.

Subd. 7. **Extension of rights, privileges, and obligations.** The rights, privileges, and obligations concerning qualifying examinations, as defined in subdivision 2, shall be extended to all persons holding offices or employment in the classified service on March 1, 1947, who have been employed by the state for a period of time, not necessarily consecutive, of at least 10 years, who on March 1, 1947, was not less than 57 years of age nor more than 59 years of age. The additional qualifying examinations prescribed by the amendment must be administered before July 1, 1947, and the probationary period shall be applicable to such person from the date they are certified as having passed the qualifying examination.

Incumbents of positions placed in the classified service by reason of Laws 1947, Chapter 482, shall receive permanent status in the classified service effective April 23, 1947, subject to the successful completion of a qualifying examination. This examination shall be held prior to July 1, 1949.

[1939 c. 441 s. 10; 1941 c. 533 s. 2, 3; 1943 c. 640 s. 1; 1945 c. 519; 1947 c. 610 s. 1; 1949 c. 123 s. 1] (254-58)

43.11 TEMPORARY EMPLOYMENT. After August 1, 1939, and prior to the time that lists of eligibles are available, appointments to offices and employments in the classified service may be made in accordance with existing laws and without regard to the provisions of this chapter. Persons so appointed shall not be entitled to any of the privileges set forth in this chapter, but they shall be permitted to apply for and take any competitive examination for which they may be eligible. These employees may continue in such employment, notwithstanding any contrary provisions of this chapter, until 60 days after the director shall have certified that lists of eligibles are available for the office or employment, whereupon the employment of such person shall automatically terminate and the office or employment shall be filled from the lists of eligibles as provided in this chapter.

[1939 c. 441 s. 11] (254-59)

43.12 DIRECTOR TO CLASSIFY EMPLOYEES. Subdivision 1. **Classification; duties of commissioner.** The director of the state civil service shall, as soon as practicable, and after consultation with appointing authorities and principal supervisory officials, classify all offices, employments, and positions in the classified service according to the duties and responsibilities of each position in accordance with the appropriate line of promotion. This duty to classify shall extend to all offices, employments, and positions held by persons who may become members of the classified service under this chapter, as provided by section 43.10, as well as to those offices, employments, and positions held by other persons. 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 grade and class formulated; and, so far as practicable, the lines of promotion from grade to grade or class to class shall be indicated. The titles in this classification, as defined by the specifications of duties and qualifications, shall be used for (1) original appointments; (2) promotions; (3) pay-rolls; and (4) all other records affecting the status of personnel. The classifications, when approved by the civil service board after public hearing, shall take effect immediately, be sent to the commissioner, and used by him in the preparation of the next following and subsequent state budgets. The director of the civil service may make changes in the classification when he deems it necessary for the efficiency of the service; and these changes, when approved by the civil service board after public hearing, shall take effect immediately, be sent to the commissioner of administration, and used by him in the preparation of the next following and subsequent state budgets.

Subd. 2. **Schedule of salaries.** (1) The following salary ranges are established as the basic rates of pay for state employees in the classified service under the state civil service act:

	Minimum	Maximum		Minimum	Maximum
Range No. 1	\$ 95	to \$ 120	Range No. 20	\$ 240	to \$ 290
Range No. 2	\$ 100	to \$ 130	Range No. 21	\$ 250	to \$ 310
Range No. 3	\$ 105	to \$ 135	Range No. 22	\$ 265	to \$ 325
Range No. 4	\$ 110	to \$ 140	Range No. 23	\$ 280	to \$ 340
Range No. 5	\$ 115	to \$ 145	Range No. 24	\$ 295	to \$ 355
Range No. 6	\$ 120	to \$ 150	Range No. 25	\$ 310	to \$ 370
Range No. 7	\$ 125	to \$ 155	Range No. 26	\$ 325	to \$ 385
Range No. 8	\$ 130	to \$ 160	Range No. 27	\$ 340	to \$ 400
Range No. 9	\$ 135	to \$ 165	Range No. 28	\$ 350	to \$ 420
Range No. 10	\$ 140	to \$ 180	Range No. 29	\$ 370	to \$ 440
Range No. 11	\$ 150	to \$ 190	Range No. 30	\$ 390	to \$ 460
Range No. 12	\$ 160	to \$ 200	Range No. 31	\$ 410	to \$ 480
Range No. 13	\$ 170	to \$ 210	Range No. 32	\$ 430	to \$ 500
Range No. 14	\$ 180	to \$ 220	Range No. 33	\$ 450	to \$ 530
Range No. 15	\$ 190	to \$ 230	Range No. 34	\$ 475	to \$ 555
Range No. 16	\$ 200	to \$ 250	Range No. 35	\$ 500	to \$ 580
Range No. 17	\$ 210	to \$ 260	Range No. 36	\$ 525	to \$ 605
Range No. 18	\$ 220	to \$ 270	Range No. 37	\$ 550	to \$ 630
Range No. 19	\$ 230	to \$ 280	Range No. 38	\$ 575	to \$ 655

(2) Each salary range set forth in clause (1) shall include five equal salary increases, from the minimum to the maximum of the range, each such increase, for the purpose of Sections 43.12, Subdivision 2, to 43.124, inclusive, to be termed a step.

(3) None of the provisions of Sections 43.12, Subdivision 2, to 43.124, inclusive, shall apply to employees in the classified service under the state civil service act who are paid on a fee basis, or to such employees who are department heads.

(4) For the purposes of this subdivision, as applied to an employee the words "his former range" mean the range of salaries established for the class of his position by Laws 1945, Chapter 598; the words "his new range" mean the salary range established by this act to which the class of his position has been assigned; and "minimum" and "maximum," used alone, mean respectively, the minimum and maximum of a range.

(5) On July 1, 1947, the basic salaries of state employees in the classified service shall be adjusted as follows:

(a) An employee the class of whose position is reassigned from former range one to new range one shall receive a basic salary in the new range bearing the same relation to the minimum and maximum salaries of that range as his salary immediately preceding the reassignment bore to the minimum and maximum salaries of former range one.

(b) The basic salary of any employee, not referred to in paragraph (a), whose then salary is less than the minimum of his new range shall be increased to the new minimum.

(c) In the case of an employee, not referred to in paragraph (a), whose then basic salary is between the minimum and maximum of his new range, if his then salary coincides with one of the basic salaries within his new range, that shall be fixed as his basic salary, but, if his then salary does not coincide with one of the basic salaries within his new range, his new basic salary shall be fixed at the next higher basic salary of that range.

(d) Where basic salary adjustments are made pursuant to paragraphs (a), (b), and (c), the economic adjustment increases provided for in section 43.123 shall be added to the adjusted basic salaries.

Subd. 3. Allocations. (1) The director shall allocate, each position in the classified civil service to one of the classes within the classification plan, subject to review by the board if an application is made in writing to the board upon one of the grounds set forth in clause (5) 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.

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 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. 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 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) 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 sixty 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) 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:

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

(2) 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.

[1939 c. 441 s. 12; 1943 c. 639 s. 1; 1945 c. 598 s. 2; 1947 c. 604 s. 2; 1949 c. 646 s. 2] (254-60)

43.121 CLASSES OF EMPLOYMENT ASSIGNED TO PROPER SALARY RANGE. Subdivision 1. The director shall, as soon as practicable after the final enactment of Laws 1947, Chapter 606, assign each class of employment in the classified service, established pursuant to Minnesota Statutes 1945, Section 43.12, Subdivision 1, to one of the salary ranges established by Laws 1947, Chapter 606, and prepare schedules showing the salary ranges for each class, grade, or group of positions in the classification as assigned by him. These schedules, when approved by the board, after public hearing, shall be submitted to the commissioner of administration, who shall determine whether funds are available to meet such schedules. The commissioner of administration may approve or reject such schedules. When approved by the commissioner of administration, they shall be used by the commissioner in connection with all pay rolls and accounting records and with all budget estimates for all departments or agencies of the state government. If the commissioner of administration does not reject the schedules, he shall forthwith file the schedules as approved by him, in the office of the secretary of state. On July 1, 1947, such schedules shall be placed in effect and shall remain in effect until changed as provided by Laws 1947, Chapter 606.

Subd. 2. When an additional class is added to the classification plan, it shall be assigned to one of the salary ranges set forth in Section 43.12, Subdivision 2, and, if the duties and responsibilities of a class in the plan are substantially changed, or if an apparent inequity exists in the assignment of a class to a salary range, that class shall be reassigned to another salary range by the director of civil service. Such assignment or reassignment to a salary range when approved by the civil service board after public hearing shall be submitted to the commissioner of administration who shall determine whether funds are available for such purposes. The commissioner of administration may approve or reject such schedules. These schedules shall become effective when approved by the commissioner 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 shall file such new schedules in the office of the secretary of state.

[1945 c. 598 s. 3; 1947 c. 606 s. 2]

43.122 ECONOMIC ADJUSTMENT INCREASE. Subdivision 1. To meet the increase in the cost of living occasioned by the present war emergency, which has not been taken into consideration in fixing the basic salaries set forth in Laws 1945, Chapter 598, immediately following the approval by the commissioner of administration of the schedules provided for in section 43.121, except as provided by section 43.124, subdivisions 7 and 8, an economic adjustment increase shall be made by the director in each of said salary ranges by adding four steps to each salary in ranges one to ten, both inclusive, and by adding three steps to each salary within ranges 11 to 34, both inclusive. The director shall then immediately file in the office of the secretary of state the schedules with the economic adjustment increases added. This economic adjustment increase shall become effective July 1, 1945.

Subd. 2. Every appointing authority shall at least once in every 12 months review the salary of each employee to determine whether the rate of pay of that employee shall be advanced to the next step within the range and shall advise the employee of his determination.

[1945 c. 598 s. 4]

43.123 INVESTIGATION. Subdivision 1. The director shall, during the month of March, 1947, make an investigation and determine whether there has been a change in the average cost of living in the cities of this state since January 1, 1945, as shown by the December, 1946, indices published by the bureau of labor statistics of the United States department of labor. The director shall make a similar investigation during the month of March every year thereafter based on the January index of that year published by the bureau of labor statistics of the United States department of labor.

Subd. 2. (1) If upon any investigation provided for in subdivision 1 the director shall ascertain that the average cost of living index is more than 109 and not more than 118, he shall so notify the commissioner of administration, and the economic adjustment increase of each classified employee's salary shall be decreased to two steps, except as to employees the classes of whose positions have been assigned to ranges one to nine, inclusive, whose economic adjustment increase shall be decreased to three steps, and effective the first day of the ensuing fiscal year, salaries shall be paid accordingly. If upon such investigation he shall ascertain that such cost of living index is more than 100 and not more than 109, he shall so notify the commissioner of administration, and, in like manner, the economic adjustment increase of each classified employee's salary shall be decreased to one step, except as to employees the classes of whose positions have been assigned to ranges one to nine, inclusive, whose economic adjustment increase shall be decreased to two steps. If upon any such investigation he shall ascertain that such cost of living index is 100 or less, he shall so notify the commissioner of administration, and, effective the first day of the ensuing fiscal year, the basic salaries provided for in Section 43.12, Subdivision 2, shall be paid. Thereafter no reduction of salary shall be made by reason of the fact that the average cost of living index is less than 100. Notification to the commissioner of administration of the lowering of the cost of living index shall be made on or before April 1, 1947, and on or before April 1 of each year thereafter. Copies of the notification to the commissioner of administration of the lowering in the average cost of living index shall be filed in the office of the secretary of state.

(2) If upon any investigation provided for in subdivision 1 the director shall ascertain that the average cost of living index is more than 127 and not more than 136, he shall so notify the commissioner of administration, and the economic adjustment increase of each classified employee's salary shall be increased to four steps, except as to employees the classes of whose positions have been assigned to ranges one to nine, inclusive, whose economic adjustment increase shall be increased to five steps, and, effective the first day of the ensuing fiscal year, salaries shall be paid accordingly.

If upon any such investigation he shall ascertain that such cost of living index is more than 136 and not more than 145, he shall recommend to the commissioner that such economic adjustment increase be increased to five steps, except as to employees the classes of whose positions have been assigned to ranges one to nine, inclusive, whose economic adjustment increase shall be increased to six steps. After any such investigation a like recommendation shall be made for an additional one step increase for each rise in such index of nine points, or fraction thereof, above 145, ascertained by the director, no more than one such increase to be recommended for rises within the same nine point range. The recommendations of the director to the commissioner shall be made on or before April 1 of the year in which his investigation is made, and if the legislature is in session, copies of such recommendations shall at the same time be filed with each branch thereof. If the commissioner upon receiving any such recommendation finds that sufficient funds are available to finance the additional adjustment, he shall so certify to the director on or before June 1 of that year. Copies of all certifications by the commissioner made pursuant to this subdivision shall be filed in the office of the secretary of state. The new adjustment shall become effective the first day of the ensuing fiscal year and salaries shall be paid accordingly.

Subd. 3. The economic adjustment increase provided for in Section 43.122 and all increases and decreases thereof shall be used by the commissioner of administration in connection with all salaries and accounting records and with all budget estimates for all departments or agencies of the state government.

[1945 c. 598 s. 5; 1947 c. 606 s. 3, 4, 5; 1949 c. 701 s. 1]

43.124 DEFINITIONS; BASIC SALARY ADJUSTMENTS. Subdivision 1. For the purposes of this section, as applied to an employee, the words "his former range" mean the range of salaries theretofore established for the class of his position; the words "his new range" mean the salary range established by Laws 1945, Chapter 598, to which the class of his position has been assigned; and "minimum" and "maximum," used alone, mean, respectively, the minimum and maximum of a range.

Subd. 2. On July 1, 1945, the basic salaries of state employees in the classified service shall be adjusted as follows.

Subd. 3. The basic salary of any employee whose then salary is the minimum of his former range and less than the minimum of his new range shall be increased to the new minimum.

Subd. 4. Where the salary of an employee is then in excess of the minimum of his former range but not greater than the maximum of his new range, and the minimum of his new range is higher than the minimum of his former range, his basic salary shall be determined by adding to the minimum of his new range the amount of such excess, unless the amount thus obtained exceeds the maximum basic salary of his new range, in which case his basic salary shall be fixed at that maximum. If the amount thus obtained is between the basic salaries within the range, his basic salary shall be fixed at the next higher salary of the range.

Subd. 5. Where the class of the position of an employee has been assigned to a range, the minimum of which is equal to or less than the minimum of his former range, and his then salary is between the minimum and maximum of his new range, if his then salary coincides with one of the basic salaries within his new range, that shall be fixed as his new basic salary, but, if his then salary does not coincide with one of the basic salaries within his new range, his new basic salary shall be fixed at the next higher basic salary of that range.

Subd. 6. Where basic salary adjustments are made pursuant to subdivisions 3, 4, and 5 of this section, the economic adjustment increases or decreases provided for in sections 43.122 and 43.123 shall be added to or deducted from the adjusted basic salaries.

Subd. 7. A permanent employee who is on July 1, 1945, receiving a salary in excess of the maximum of his new range shall not have such salary reduced by reason of the provisions of Laws 1945, Chapter 598, but, in lieu of the economic adjustment increase provided for in section 43.122, any such employee shall receive the War Salary Increase provided for by Laws 1943, Chapter 638, Section 9, 644, Section 20, 655, Section 8, 660, Section 46.

Subd. 8. Notwithstanding any provision in Laws 1945, Chapter 598, the minimum salary, including all adjustments, of employees in the classified service who have been in the service of the state five years or more immediately preceding the effective date of Laws 1945, Chapter 598, shall be \$120 per month.

[1945 c. 598 s. 6]

43.13 EXAMINATIONS REASONABLE. Subdivision 1. **Fair.** All competitive 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 sought by them.

Subd. 2. **Examinations; character.** The competitive examinations shall, after published notice, be open to all applicants who are citizens of the United States, who have been residents of this state for two years immediately preceding the date of examination, and who meet with reasonable standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other 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. The director may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require. Examinations shall be held at such times and places as in the judgment of the director most nearly meet the convenience of applicants, practicability of administration and the needs of the service. For positions requiring professional, technical, or unusual qualifications, the director may, subject to the approval of the board, open competitive examinations to residents of other states who are citizens of the United States and who are otherwise qualified.

Subd. 3. **Places where held.** The director may also require candidates to undergo an examination at designated places in the state, in cases where oral tests or tests for manual skill or the use of instruments in construction work may be necessary to determine the fitness of such candidates.

[1939 c. 441 s. 13] (254-61)

43.14 EXAMINATION REFUSED; APPEAL; BOND. Subdivision 1. **Reasons for refusal.** The director 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 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 director refuses to examine an applicant, or after an examination refuses to certify an eligible, as provided in this section, then the director, 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. In the case of any such refusal, an appeal may be taken to the board in accordance with the rules to be adopted in the manner hereinbefore provided.

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.

[1939 c. 441 s. 14] (254-62)

43.15 POLITICAL OR RELIGIOUS DISCRIMINATION FORBIDDEN. 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.

[1939 c. 441 s. 15] (254-63)

43.16 OATH. Every officer or employee of the state, and every person making application for examination under this chapter shall take and subscribe an oath or affirmation, in writing, to the effect that such person will honestly and faithfully protect and preserve the property and money of the state and will abide by, uphold, and defend the Constitution of the United States of America and the Constitution of the State of Minnesota and, except as provided in these constitutions, he will not take part in any movement to alter or change our form of government.

[1939 c. 441 s. 16] (254-64)

43.17 APPOINTMENTS; TERM OF ELIGIBILITY; CERTIFIED LISTS. 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 and reinstatement lists and on promotion lists shall be one year, but the term of any list may be extended by the director. In no case may eligibility be extended for a period of more than three years.

Subd. 3. **Certified lists; appointments made from.** Appointments shall be made from the appropriate eligible list, but if no such list exists, then the director may certify from such other list as he deems the next most nearly appropriate. A new and separate list shall be created for a stated position only when there is no satisfactory list. The director 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 to perform the duties of, any position in the classified service, unless he has previously qualified therefor under the provisions of this chapter.

[1939 c. 441 s. 17] (254-65)

43.171 ELIGIBILITY OF VETERANS. Notwithstanding the provisions of Minnesota Statutes 1945, Section 43.17, Subdivision 2, any person who attended a Minnesota Highway Patrol training school and who qualified thereby for employment as a State Highway Patrolman and who, by reason of service in the armed forces during World War II, was unavailable for such employment is hereby declared to be eligible for employment as a State Highway Patrolman for a period of one year from the date hereof providing he is honorably discharged from service in World War II and is otherwise qualified to enter upon and perform the duties of such employment.

[1947 c. 393 s. 1]

43.18 VACANCY, NOTICE OF. Subdivision 1. **Notice.** Appointing officers shall give written notice to the civil service director 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 director shall certify, from the list of eligibles, appropriate for the grade and class in which the position is classified, the three names at the head thereof, except as provided in section 43.23.

Subd. 2. **Appointment; probation.** The appointing officer 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. The provisions of this section shall not apply when the office or employment is among those listed in section 43.20, for which competitive examinations are not required.

Subd. 3. **Standards of performance established.** As soon as practicable after the passage of this chapter and after consultation with appointing authorities and other supervising officials, the director shall establish standards of performance for each class of position and maintain records of efficiency, character, and conduct by a system of service ratings based upon these standards. The board shall establish and enforce rules and regulations in respect to these service ratings and prescribe the extent to which these service ratings shall be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of reduction or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter, and in all other decisions relating to the status of employees. The board may further by rule prescribe the extent to which these ratings and the reports upon which they are based shall be open to inspection by the public and by the affected employees.

[1939 c. 441 s. 18] (254-66)

43.19 VACANCIES, HOW FILLED; PROMOTIONS; SALARY INCREASES; DISMISSAL. 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 board may provide, from the lower class or group within the particular classification, and in accordance with section 43.18 and the rules of the board. 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, conduct, and seniority shall all constitute a factor.

(2) The director, with the approval of the board, may authorize the appointing authority of any state office or department to promote any employee in that office or department to a position of 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 director shall give the non-competitive examinations provided for in clause 2 upon request of any appointing authority, in accordance with rules and regulations to be prescribed by the board.

Subd. 2. **Increase, when a promotion.** For the purpose of this section, an increase in the salary or other compensation of any person holding an office or position subject to the provisions of this chapter, beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion.

Subd. 3. **Restoration to position after dismissal.** Any promotional appointee who is dismissed for cause other than misconduct or delinquency on his part

from the position to which he has been promoted either during the probationary period, or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon registers of persons eligible for original appointments.

[1939 c. 441 s. 19; 1947 c. 604 s. 3] (254-67)

43.20 POSITIONS FILLED WITHOUT COMPETITION. Positions in the classified service may be filled without competition only as follows:

(1) When there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify from any appropriate eligible list for the vacancy, the director may 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 no person shall receive more than one provisional appointment nor serve more than three months in any calendar year as a provisional appointee;

(2) 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 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;

(3) 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 board, upon recommendation of the director, may suspend the requirements of competition in this case, but no suspension shall be general in its application to the position, and all the cases of suspension shall be reported in the annual report of the department, with the reasons for the same;

(4) Where the services to be rendered by an appointee are for a temporary period not to exceed three months, and a proper list of eligibles is not available, the director shall certify 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; successive temporary appointments to the same positions shall not be made under this provision; and no person shall receive more than one temporary appointment within one year.

[1939 c. 441 s. 20] (254-68)

43.21 PROBATIONARY PERIOD. Except as in this chapter otherwise provided, all original appointments to and promotions within the classified service, and offices or employments within the classified service held by persons who become members of the classified service without examination pursuant to section 43.10, or by qualifying examination pursuant to section 43.10, shall be for a probationary period of six months, but dismissals or demotions may be made at any time during such period, subject to the provisions of section 43.19, subdivision 3. Provided, that no employee transferred or promoted from one position in the classified service to another position in the classified 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 30 days in his new position. At the end of the probationary period the appointing officer shall notify the director, in writing, whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice, the employee, if his service during the probationary period did not fall below such minimum standards as have been prescribed by the director of the civil service, shall be deemed to have a permanent classified civil service status; otherwise the employee is automatically separated from the service, except as provided in section 43.19, subdivision 3. Provided, any employee holding office on January 1, 1949, who was provisionally appointed prior to August 2, 1941, and who passed an open competitive examination given November 18, 1944, and who was certified for appointment from an eligible list on April 16, 1945, or May 9, 1945, and

who was appointed probationally on May 1, 1945, May 8, 1945, or May 10, 1945, shall be given full civil service status from the date of his probationary appointment.

[1939 c. 441 s. 21; 1947 c. 489 s. 1; 1949 c. 490 s. 1] (254-69)

43.22 TRANSFERS WITHIN CLASSIFIED SERVICE; 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 director of the civil service.

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, and leave to accept an appointive position in the state unclassified service, shall exceed one year, except as provided in subdivisions 4, 5, and 6.

Subd. 3. **Leaves, when granted.** Leave of absence may be granted to an officer or employee holding a position in the classified service and shall be conclusively presumed to have been granted to an officer or person holding a position on January 1, 1939, thereafter included within the classified service to enable such person to take an appointive position in the state unclassified service. Persons having accepted or accepting appointive positions in the unclassified service shall, upon the termination thereof, be restored to the status and position which they last held at any time within one year after the termination of their appointment in the unclassified service upon application therefor to the director of 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 of this section, 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 director of civil service.

Subd. 5. **Leave granted to persons engaged in war work.** Upon the approval of the appointing authority, any person holding a position in the classified service as a permanent or probationary employee who accepts employment in an essential war activity shall be granted a leave of absence expiring 45 days after the cessation of hostilities in the present war as declared by proper federal authority.

Upon the same approval, permanent or probationary employees who resigned from the state service after December 7, 1941, to accept such employment shall be granted such leave of absence effective as of the date of resignation, provided application therefor is made within six months from April 24, 1943, but not later than the cessation of hostilities in the present war as declared by proper federal authority. For good and sufficient reason fully set forth by the employee concerned, approved by the appointing authority and by the director of the state civil service, such leave may be extended for an additional period of time as may be so approved.

An employee who has been refused a leave of absence provided in this subdivision may request the director of the state civil service to cause an investigation to be made of the circumstances involved in the refusal. It shall be the duty of the director to report the results of such investigation and his recommendations to the appointing authority and the employee. The director may, in his discretion, grant such leave or place the name of the employee upon the state-wide reemployment register.

Leaves of absence granted by the director of the division of employment and security and approved by the director of the state civil service to employees of the division by reason of a temporary transfer of the personnel and functions of the employment service of the division to the United States employment service in accordance with executive order No. 12 of the governor dated December 20, 1941, are herewith reinstated and extended until such time as the personnel and functions of the employment service of the division shall be returned to the state, provided that such employees, except those who have been granted military leave, are in the employ of the United States employment service at the time of the return of the state employment service to the state.

Subd. 6. **Employment with probationary status.** All persons who have been or hereafter may be employed or promoted by the United States employment service subsequent to the temporary transfer of the personnel and functions of the employment service of the division of employment and security to the United States employment service may be employed with probationary status by the director of the division of employment and security when the personnel and functions of the employment service of the division are returned to the state if such persons are in the employment of the United States employment service when such personnel and functions are returned to the state and have qualified under a civil service examination approved by the director of the state civil service.

[1939 c. 441 s. 22; 1941 c. 533 s. 4; 1943 c. 640 s. 2, 3; 1947 c. 604 s. 4] (254-70)

43.225 SUSPENSION PERIOD; ACQUISITION OF PERMANENT STATUS. For the purposes of sections 43.225 and 43.226 the period from and after its passage and until six months after the termination of the present war emergency as declared by proper federal authority, or until June 1, 1947, whichever is later, shall be known as the suspension period. Any persons heretofore appointed in conformity to the provisions of Chapter 585, whose names were taken from promotional lists established prior to the enactment of said chapter shall have status of permanent employees. Such status shall extend to persons who had a permanent status in the state classified service prior to the effective date of Laws 1945, Chapter 585, and were appointed from promotional lists established subsequent to July 1, 1946, in the grain inspection department of the state of Minnesota upon successful completion of a six months probationary period following a promotional appointment.

[1945 c. 585 s. 1; 1947 c. 630 s. 1]

43.226 SUSPENSION PERIOD; VETERANS PREFERENCE; EXCEPTION. Except as otherwise herein provided, appointments made during such suspension period to fill any position in the classified civil service of the State of Minnesota or any of its political subdivisions, or to fill any other appointive position in the public service of the state or any of its political subdivisions which is subject to veteran's preference under any existing law or charter provision shall be governed by the existing law or charter provision applicable to such appointment, but any rights of a person appointed to such a position during such suspension period to continued tenure therein shall terminate upon the expiration of such suspension period, except those persons promoted in accordance with the provisions of section 43.225.

[1945 c. 585 s. 2; 1947 c. 630 s. 1]

43.23 SENIORITY RIGHTS; POSITIONS ABOLISHED; PREFERENCE. Subdivision 1. **Right of seniority.** When one or more employees in the classified 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 rules established by the board, which shall be based on seniority within the department, 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 15 days before the effective date thereof, give written notice to the employee and the director of civil service and may certify to the director the reasons therefor. In any case where an appointing authority refuses to certify, or 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 director 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.

[1939 c. 441 s. 23; 1949 c. 611 s. 1] (254-71)

43.24 REMOVALS; REASONS FOR IN WRITING; HEARINGS; DECISION.

Subdivision 1. **Written statement and hearing required.** 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. 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, specifically setting forth the reasons for the disciplinary action. A copy of the statement shall be filed with the director of civil service prior to the effective date thereof.

Subd. 2. **Appeal to board; public hearing; findings of board.** Any permanent employee who is removed, discharged, or suspended without pay for more than 30 days may appeal to the board within 30 days after such action is taken. Upon such appeal, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly and to present evidence. At the hearing of such appeals, technical rules of evidence shall not apply. If the board finds that the action complained of was taken by the appointing authority for any political, racial or religious reason, the employee shall be reinstated to his position without loss of pay. In all other cases, the findings and recommendations of the board shall be final. If such final decision is in favor of the employee, the appointing authority shall reinstate him and approve the payment of any salary or wages lost by him. When any permanent employee is dismissed and not reinstated after appeal, the board may direct that his name be placed on an appropriate re-employment list, which direction shall be enforced by the director.

Subd. 3. **Dismissal of provisional and temporary employees.** Provisional employees, as provided for in subdivision 1, emergency employees, as defined in subdivision 2, and temporary employees, as defined in section 43.20, clause (4), may be dismissed at any time at the discretion of the appointing officer.

[1939 c. 441 s. 24; 1943 c. 607 s. 1; 1947 c. 604 s. 5] (254-72)

43.25 DIRECTOR NOTIFIED OF ANY DISCHARGE OR EMPLOYMENT.

Each appointing officer shall report to the director 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 director and the rules and regulations adopted by the board.

[1939 c. 441 s. 25] (254-73)

43.26 DIRECTOR TO CERTIFY PAY-ROLLS. Subdivision 1. **Salary estimate pay-roll required.** Neither the state auditor 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 an estimate pay-roll or account for such salary or compensation containing the name of every person to be paid shall bear the certificate of the director of the civil service that the persons named in such estimate, pay-roll, or account have been appointed, employed, reinstated, or promoted and are performing service as required by law and the rules established hereunder 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 (1), (4), (6), (8), (9), (10), (11), (13), (14), and (15), nor to teachers, research assistants, student employees on less than half-time pay basis, presidents, deans, and administrative officers in the teachers colleges.

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 director of the civil service or any member of the civil service board. 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 pay-roll 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. Director to make special rules. The director shall have power to make special rules and regulations for matters requiring conformance to federal law or regulations.

[1939 c. 441 s. 26; 1941 c. 533 s. 5] (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.

[1939 c. 441 s. 27] (254-75)

43.28 POLITICAL CONTRIBUTIONS AND ACTIVITIES PROHIBITED. No officer or employee holding a position in the classified service of this state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assistance, assessment, or subscription, whether voluntary or involuntary, for any political purpose or for any political party or affiliate thereof. No officer or employee in the classified service shall be a delegate or alternate to any political convention. No officer, agent, clerk, or employee of this state shall, directly or indirectly, 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.

Any officer or employee in the state classified service shall resign from the service upon filing as a candidate for public office.

[1939 c. 441 s. 29] (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 director of the civil service, furnish convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The director 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 director.

[1939 c. 441 s. 30] (254-78)

43.30 VETERANS PREFERENCE. In all examinations under this chapter a veterans' preference shall be given to soldiers, sailors, nurses, marines, members of Women's Auxiliary Army, Navy, and Marine Corps, and officers of the military and naval forces of the United States, honorably discharged from the army, navy, marine corps and Women's Auxiliary Army Corps of the United States, who had served in the Civil War, Spanish American War, Phillipine Insurrection, China Relief Expedi-

tion, World War I and World War II between the United States of America and its Allies, and Germany, Japan, Italy and their Allies; who are citizens of the United States and have been residents of the state of Minnesota five years immediately preceding their application or who enlisted from the State of Minnesota, and to persons who served in the active military or naval service of any government allied with the United States in World War I or World War II, and have been honorably discharged therefrom, and who are citizens of the United States and were such citizens at the time of entrance into such active service, and have been residents of the state of Minnesota five years immediately preceding their application or who enlisted from the state of Minnesota. And the veterans 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 a credit of ten points, and if such augmented rating gives to such disabled veteran a passing grade and such disabled veteran is able to perform the duties of the position sought with reasonable efficiency, his name shall be placed at the head of the eligible list for such position.

There shall be added to the examination rating of all other veterans a credit of five points, and if such augmented rating gives to such veteran a passing grade and if such veteran is able to perform the duties of the position 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 non-veteran when their ratings are the same.

Such preference is hereby extended to the widows of deceased veterans and to the spouse of a disabled veteran, who because of such disability is unable to qualify.

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

A disabled veteran is one who is rated or certified as disabled 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.

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

[1939 c. 441 s. 31; 1943 c. 157 s. 1; 1947 c. 395 s. 1] (254-79)

43.31 SERVICE AVAILABLE TO STATE POLITICAL SUBDIVISIONS. The services and facilities of the state civil service department and its staff shall be available upon request, subject to rules prescribed therefor by the board, 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 board may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The board 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.

[1939 c. 441 s. 32] (254-80)

43.32 TRAINING PROGRAM. The director of the civil service shall devise plans for and cooperate with appointing authorities and other supervisory officers in the conduct of employee training programs, to the end that the quality of service rendered by persons in the state civil service may be continually improved. Provision may be made in the rules adopted by the civil service board 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 one year in the several departments and agencies concerned.

[1939 c. 441 s. 33] (254-81)

43.33 CITATION. Sections 15.01 and 43.01 to 43.35 shall be known and may be cited as the "State civil service act."

[1939 c. 441 s. 35] (254-83)

43.34 LAWS SUPERSEDED. The provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, sections 4368, 4369, and 4369-1, are hereby superseded by section 43.30, insofar as sections 4368, 4369, and 4369-1 might be applicable to the state civil service as provided in this chapter; anything in the 1938 Supplement to Mason's Minnesota Statutes of 1927, section 4369-2, to the contrary notwithstanding; provided, that honorably discharged veterans of past wars and other persons enumerated in section 43.30 holding offices or employments within the classified service on the effective date of this chapter are hereby given a permanent classified civil service status as of the effective date of this chapter, and shall thereafter be subject to and protected by the provisions of this chapter and shall not be subject to the probationary period provided for by section 43.21.

[1939 c. 441 s. 38] (254-86)

43.35 VIOLATIONS; PENALTIES. Any civil service board member, director, 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 civil service board 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.

[1939 c. 441 s. 28] (254-76)

43.36 LAWS CONTINUED IN FORCE. Notwithstanding the provisions of the state civil service act and the amendments to existing statutes made by this chapter, all existing salaries and compensation schedules, and all laws and regulations governing these salaries and compensation schedules in force on the day previous to the effective date of this chapter, shall continue in force until the salary and wage schedules are approved by the commissioner, as provided in the state civil service act.

[1939 c. 441 s. 45] (254-87)