

CHAPTER 43A

DEPARTMENT OF EMPLOYEE RELATIONS

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43A.02 DEFINITIONS.

[For text of subds 1 to 24, see M.S.1992]

Subd. 25. **Judicial branch.** "Judicial branch" means all judges of the appellate courts, all employees of the appellate courts, including commissions, boards, and committees established by the supreme court, the board of law examiners, the law library, the office of the state public defender, district public defenders and their employees, all judges of all courts of law, district court referees, judicial officers, court reporters, law clerks, district administration employees under section 484.68, court administrator or employee of the court and guardian ad litem program employees in the eighth judicial district, and other agencies placed in the judicial branch by law. Judicial branch does not include district administration or public defenders or their employees in the second and fourth judicial districts, court administrators or their staff under chapter 485, guardians ad litem, or other employees within the court system whose salaries are paid by the county, other than employees who remain on the county payroll under section 480.181, subdivision 2.

[For text of subds 26 to 40, see M.S.1992]

History: 1993 c 146 art 2 s 9

43A.045 RESTRUCTURING.

(a) It is the policy of the state of Minnesota that any restructuring of executive branch agencies must include efforts to ensure that fair and equitable arrangements are carried out to protect the interests of executive branch employees and to provide the best possible service to the public. The commissioner shall make an effort to train and retrain existing employees for a changing work environment. Where restructuring may involve a loss of existing positions and employment, the commissioner shall assist affected employees in finding suitable employment.

(b) Options available to employees whose positions will be eliminated by implementation of a restructuring plan must include, at a minimum, job and training opportunities necessary to qualify for another job in the same, an equal, or a lower classification within their current department or in another state agency.

(c) Implementation of this section, as well as procedures for notifying employees affected by restructuring plans, must be negotiated into collective bargaining agreements under chapter 179A. Nothing in this section shall be construed as diminishing any rights defined in collective bargaining agreements under this chapter or chapter 179A.

History: 1993 c 192 s 75

43A.17 SALARY LIMITS, RATES, RANGES AND EXCEPTIONS.

[For text of subds 1 to 8, see M.S.1992]

Subd. 9. **Political subdivision compensation limit.** The salary and the value of all other forms of compensation of a person employed by a statutory or home rule charter

city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state, or employed under section 422A.03, may not exceed 95 percent of the salary of the governor as set under section 15A.082, except as provided in this subdivision. Deferred compensation and payroll allocations to purchase an individual annuity contract for an employee are included in determining the employee's salary. Other forms of compensation which shall be included to determine an employee's total compensation are all other direct and indirect items of compensation which are not specifically excluded by this subdivision. Other forms of compensation which shall not be included in a determination of an employee's total compensation for the purposes of this subdivision are:

(1) employee benefits that are also provided for the majority of all other full-time employees of the political subdivision, vacation and sick leave allowances, health and dental insurance, disability insurance, term life insurance, and pension benefits or like benefits the cost of which is borne by the employee or which is not subject to tax as income under the Internal Revenue Code of 1986;

(2) dues paid to organizations that are of a civic, professional, educational, or governmental nature; and

(3) reimbursement for actual expenses incurred by the employee which the governing body determines to be directly related to the performance of job responsibilities, including any relocation expenses paid during the initial year of employment.

The value of other forms of compensation shall be the annual cost to the political subdivision for the provision of the compensation. The salary of a medical doctor or doctor of osteopathy occupying a position that the governing body of the political subdivision has determined requires an M.D. or D.O. degree is excluded from the limitation in this subdivision. The commissioner may increase the limitation in this subdivision for a position that the commissioner has determined requires special expertise necessitating a higher salary to attract or retain a qualified person. The commissioner shall review each proposed increase giving due consideration to salary rates paid to other persons with similar responsibilities in the state and nation. The commissioner may not increase the limitation until the commissioner has presented the proposed increase to the legislative commission on employee relations and received the commission's recommendation on it. The recommendation is advisory only. If the commission does not give its recommendation on a proposed increase within 30 days from its receipt of the proposal, the commission is deemed to have recommended approval.

[For text of subd 10, see M.S.1992]

Subd. 11. Severance pay for certain employees. (a) For purposes of this subdivision, "highly compensated employee" means an employee of the state whose estimated annual compensation is greater than 60 percent of the governor's annual salary, and who is not covered by a collective bargaining agreement negotiated under chapter 179A.

(b) Severance pay for a highly compensated employee includes benefits or compensation with a quantifiable monetary value, that are provided for an employee upon termination of employment and are not part of the employee's annual wages and benefits and are not specifically excluded by this subdivision. Severance pay does not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance. Severance pay for a highly compensated employee does not include payments of periodic contributions by an employer toward premiums for group insurance policies. The severance pay for a highly compensated employee must be excluded from retirement deductions and from any calculations of retirement benefits. Severance pay for a highly compensated employee must be paid in a manner mutually agreeable to the employee and the employee's appointing authority over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Except as provided in para-

graph (c), severance pay provided for a highly compensated employee leaving employment may not exceed an amount equivalent to six months of pay.

(c) Severance pay for a highly compensated employee may exceed an amount equivalent to six months of pay if the severance pay is part of an early retirement incentive offer approved by the state and the same early retirement incentive offer is also made available to all other employees of the appointing authority who meet generally defined criteria relative to age or length of service.

Subd. 12. **Actuaries.** Actuaries employed by the department of health, human services, or commerce are not subject to subdivision 1.

History: 1993 c 315 s 5,6; 1993 c 345 art 5 s 2

43A.18 TOTAL COMPENSATION; COLLECTIVE BARGAINING AGREEMENTS; PLANS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Plans not established but approved by commissioner.** Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. Compensation plans established under paragraphs (b), (c), (d), and (e) must be approved by the legislature and the legislative commission on employee relations under subdivision 2 before becoming effective.

(a) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer must be determined by the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer, respectively.

(b) Total compensation for unclassified positions under section 43A.08, subdivision 1, clause (9), in the state universities and the community colleges not covered by a collective bargaining agreement must be determined by the state university board and the state board for community colleges, respectively.

(c) Total compensation for classified administrative law judges in the office of administrative hearings must be determined by the chief administrative law judge.

(d) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education coordinating board and in the state board of technical colleges must be determined by the higher education coordinating board and the state board of technical colleges, respectively.

(e) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education board must be determined by the higher education board.

Subd. 4a. **Compensation reports.** On July 1 of each odd-numbered year the state agricultural society, the World Trade Center corporation board of directors, the Minnesota Technology, Inc. board of directors, and the governing board of the Minnesota state high school league shall each submit a report to the legislative commission on employee relations on the total compensation plan for their employees.

[For text of subds 5 to 8, see M.S.1992]

History: 1993 c 122 s 2

43A.24 ELIGIBILITY FOR STATE PAID INSURANCE AND BENEFITS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Other eligible persons.** The following persons are eligible for state paid life insurance and hospital, medical, and dental benefits as determined in applicable

collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the board of regents for employees of the University of Minnesota not covered by collective bargaining agreements. Coverages made available, including optional coverages, are as contained in the plan established pursuant to section 43A.18, subdivision 2.

(a) a member of the state legislature, provided that changes in benefits resulting in increased costs to the state shall not be effective until expiration of the term of the members of the existing house of representatives. An eligible member of the state legislature may decline to be enrolled for state paid coverages by filing a written waiver with the commissioner. The waiver shall not prohibit the member from enrolling the member or dependents for optional coverages, without cost to the state, as provided for in section 43A.26. A member of the state legislature who returns from a leave of absence to a position previously occupied in the civil service shall be eligible to receive the life insurance and hospital, medical, and dental benefits to which the position is entitled;

(b) a permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission or a state employee on leave of absence to work for the legislature, during a regular or special legislative session;

(c) a judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, a judge of county municipal court, or a judge of probate court; a district court referee, judicial officer, court reporter, or law clerk; a district administrator; an employee of the office of the district administrator that is not in the second or fourth judicial district; a court administrator or employee of the court administrator in the eighth judicial district, and a guardian ad litem program administrator in the eighth judicial district;

(d) a salaried employee of the public employees retirement association;

(e) a full-time military or civilian officer or employee in the unclassified service of the department of military affairs whose salary is paid from state funds;

(f) a salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(g) an employee of the regents of the University of Minnesota;

(h) notwithstanding section 43A.27, subdivision 3, an employee of the state of Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service and retires, earlier than required, within 60 days of March 23, 1982; or an employee who is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state service and retires, earlier than required, from employment at Rochester state hospital after July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982, and is covered by the Minnesota state retirement system correctional employee retirement plan or the state patrol retirement fund, who has at least 20 years of state service and retires, earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person retires when the person terminates active employment in state or University of Minnesota service and applies for a retirement annuity. Eligibility shall cease when the retired employee attains the age of 65, or when the employee chooses not to receive the annuity that the employee has applied for. The retired employee shall be eligible for coverages to which the employee was entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established pursuant to section 43A.18, for employees in positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program;

(i) an employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements

under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A. The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance; and

(j) employees of the state public defender's office, and district public defenders and their employees other than in the second and fourth judicial districts, with eligibility determined by the state board of public defense in consultation with the commissioner of employee relations.

Subd. 3. [Repealed, 1993 c 122 s 7]

History: 1993 c 146 art 2 s 10

43A.31 ADMINISTRATION.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. [Repealed, 1993 c 337 s 20]

43A.317 PRIVATE EMPLOYERS INSURANCE PROGRAM.

[For text of subd 1, see M.S.1992]

Subd. 2. **Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meaning given them.

(b) **Commissioner.** "Commissioner" means the commissioner of employee relations.

(c) **Eligible employee.** "Eligible employee" means an employee eligible to participate in the program under the terms described in subdivision 6.

(d) **Eligible employer.** "Eligible employer" means an employer eligible to participate in the program under the terms described in subdivision 5.

(e) **Eligible individual.** "Eligible individual" means a person eligible to participate in the program under the terms described in subdivision 6.

(f) **Employee.** "Employee" means an employee of an eligible employer. "Employee" includes a sole proprietor, partner of a partnership, member of a limited liability company, or independent contractor.

(g) **Employer.** "Employer" means a private person, firm, corporation, partnership, limited liability company, association, or other entity actively engaged in business or public services. "Employer" includes both for-profit and nonprofit entities.

(h) **Program.** "Program" means the private employers insurance program created by this section.

[For text of subds 3 and 4, see M.S.1992]

Subd. 5. **Employer eligibility.** (a) **Procedures.** All employers are eligible for coverage through the program subject to the terms of this subdivision. The commissioner shall establish procedures for an employer to apply for coverage through the program.

(b) **Term.** The initial term of an employer's coverage will be two years from the

effective date of the employer's application. After that, coverage will be automatically renewed for additional two-year terms unless the employer gives notice of withdrawal from the program according to procedures established by the commissioner or the commissioner gives notice to the employer of the discontinuance of the program. The commissioner may establish conditions under which an employer may withdraw from the program prior to the expiration of a two-year term, including by reason of a midyear increase in health coverage premiums of 50 percent or more. An employer that withdraws from the program may not reapply for coverage for a period of two years from its date of withdrawal.

(c) **Minnesota work force.** An employer is not eligible for coverage through the program if five percent or more of its eligible employees work primarily outside Minnesota, except that an employer may apply to the program on behalf of only those employees who work primarily in Minnesota.

(d) **Employee participation; aggregation of groups.** An employer is not eligible for coverage through the program unless its application includes all eligible employees who work primarily in Minnesota, except employees who waive coverage as permitted by subdivision 6. Private entities that are eligible to file a combined tax return for purposes of state tax laws are considered a single employer, except as otherwise approved by the commissioner.

(e) **Private employer.** A private employer is not eligible for coverage unless it has two or more eligible employees in the state of Minnesota. If an employer has only two eligible employees and one is the spouse, child, sibling, parent, or grandparent of the other, the employer must be a Minnesota domiciled employer and have paid social security or self-employment tax on behalf of both eligible employees.

(f) **Minimum participation.** The commissioner must require as a condition of employer eligibility that at least 75 percent of its eligible employees who have not waived coverage participate in the program. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. For purposes of this section, waiver of coverage includes only waivers due to coverage under another group health benefit plan.

(g) **Employer contribution.** The commissioner must require as a condition of employer eligibility that the employer contribute at least 50 percent toward the cost of the premium of the employee and may require that the contribution toward the cost of coverage is structured in a way that promotes price competition among the coverage options available through the program.

(h) **Enrollment cap.** The commissioner may limit employer enrollment in the program if necessary to avoid exceeding the program's reserve capacity.

[For text of subd 6, see M.S.1992]

Subd. 7. Coverage. Coverage is available through the program beginning on July 1, 1993. Until an arrangement is in place to provide coverage through a transfer of risk to one or more carriers regulated under chapter 62A, 62C, or 62D, the commissioner shall solicit bids under section 43A.23, from carriers regulated under chapters 62A, 62C, and 62D, to provide coverage of eligible individuals. The commissioner shall provide coverage through contracts with carriers, unless the commissioner receives no reasonable bids from carriers.

(a) **Health coverage.** Health coverage is available to all employers in the program. The commissioner shall attempt to establish health coverage options that have strong care management features to control costs and promote quality and shall attempt to make a choice of health coverage options available. Health coverage for a retiree who is eligible for the federal Medicare program must be administered as though the retiree is enrolled in Medicare parts A and B. To the extent feasible as determined by the commissioner and in the best interests of the program, the commissioner shall model coverage after the plan established in section 43A.18, subdivision 2. Health coverage must include at least the benefits required of a carrier regulated under chapter 62A, 62C, or

62D for comparable coverage. Coverage under this paragraph must not be provided as part of the health plans available to state employees.

(b) **Optional coverages.** In addition to offering health coverage, the commissioner may arrange to offer dental coverage through the program. Employers with health coverage may choose to offer dental coverage according to the terms established by the commissioner.

(c) **Open enrollment.** The program must meet all underwriting requirements of chapter 62L and must provide periodic open enrollments for eligible individuals for those coverages where a choice exists.

(d) **Technical assistance.** The commissioner may arrange for technical assistance and referrals for eligible employers in areas such as health promotion and wellness, employee benefits structure, tax planning, and health care analysis services as described in section 62J.33.

[For text of subd 8, see M.S.1992]

Subd. 9. Private employers insurance trust fund. (a) **Contents.** The private employers insurance trust fund in the state treasury consists of deposits received from eligible employers and individuals, contractual settlements or rebates relating to the program, investment income or losses, and direct appropriations.

(b) **Appropriation.** All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other costs necessary to administer the program.

(c) **Reserves.** For any coverages for which the program does not contract to transfer full financial responsibility, the commissioner shall establish and maintain reserves:

(1) for claims in process, incomplete and unreported claims, premiums received but not yet earned, and all other accrued liabilities; and

(2) to ensure premium stability and the timely payment of claims in the event of adverse claims experience. The reserve for premium stability and claim fluctuations must be established according to the standards of section 62C.09, subdivision 3, except that the reserve may exceed the upper limit under this standard until July 1, 1997.

(d) **Investments.** The state board of investment shall invest the fund's assets according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

Subd. 10. Program status. The private employers insurance program is a state program to provide the advantages of a large pool to small employers for purchasing health coverage, other coverages, and related services from insurance companies, health maintenance organizations, and other organizations. The program is not an insurance company. Coverage under this program shall be considered a certificate of insurance or similar evidence of coverage and is subject to all applicable requirements of chapters 60A, 62A, 62C, 62E, 62H, 62L, and 72A, and is subject to regulation by the commissioner of commerce to the extent applicable.

[For text of subd 11, see M.S.1992]

History: 1993 c 13 art 1 s 15; 1993 c 247 art 3 s 1-3; 1993 c 345 art 8 s 1

43A.321 VOLUNTEER FIREFIGHTER AND RESCUE WORKERS; AGREEMENTS.

(a) An employee may reach an agreement with the employee's appointing authority to respond to emergency calls as a volunteer emergency fire or rescue worker during working hours, provided that:

(1) the employee does not respond to a call when the employee's sudden absence would endanger others; and

(2) the employee remits to the appointing authority any compensation received for responding to the call.

(b) If such an agreement is entered into:

(1) the appointing authority shall make no deductions from the employee's wages or sick or vacation time for time spent responding to calls; and

(2) workers' compensation liability is the responsibility of the entity for which the emergency services are provided while the employee is responding to the call.

History: 1993 c 136 s 1