

CHAPTER 43A

DEPARTMENT OF EMPLOYEE RELATIONS

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43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER.

Subdivision 1. **Statewide leadership.** (a) The commissioner is the chief personnel and labor relations manager of the civil service in the executive branch.

Whenever any power or responsibility is given to the commissioner by any provision of Laws 1981, chapter 210, unless otherwise expressly provided, the power or authority applies to all employees of agencies in the executive branch and to employees in classified positions in the office of the legislative auditor, the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. Unless otherwise provided by law, the power or authority does not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner has access to all public and private personnel data kept by appointing authorities that will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of Laws 1981, chapter 210, and may order any remedial actions consistent with law.

(d) The commissioner has sole authority to settle state employee workers' compensation claims.

(e) The commissioner may assess or establish and collect premiums from all state entities to cover the costs of programs under sections 15.46 and 176.603.

Subd. 1a. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

[For text of subds 2 to 6, see M.S.1994]

Subd. 7. Reporting. The commissioner shall issue a written report by February 1 and August 1 of each year to the chair of the legislative coordinating commission. The report must list the number of appointments made under each of the categories in section 43A.15, the number made to the classified service other than under section 43A.15, and the number made under section 43A.08, subdivision 2a, during the six-month periods ending June 30 and December 31, respectively.

[For text of subds 8 to 10, see M.S.1994]

Subd. 11. Training for agency rulemaking staff. The commissioner, in cooperation with the office of administrative hearings, the attorney general, the revisor of statutes, and experienced agency rulemaking staff, shall provide training to agency staff involved in rule-making, including information about the availability of mediators through the office of administrative hearings.

The commissioner may charge agency staff a registration fee for attending this training. The fee must be set at a level that permits the commissioner to recover the costs, excluding costs of staff time for staff positions funded through general fund appropriations, of providing this training.

The office of administrative hearings, the attorney general, agencies involved in providing this training, and the revisor of statutes shall not assess the commissioner for the cost of staff time to conduct the training provided under this subdivision.

History: 1995 c 233 art 2 s 37; 1995 c 248 art 2 s 7; art 10 s 2; art 11 s 4

43A.05 POWERS AND RESPONSIBILITIES THROUGH THE PERSONNEL BUREAU.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. Commissioner's plan. The commissioner shall periodically develop and establish pursuant to Laws 1981, Chapter 210 a commissioner's plan. The commissioner shall submit the plan, before becoming effective, to the legislative coordinating commission for approval.

[For text of subd 4, see M.S.1994]

Subd. 5. Comparability adjustments. The commissioner shall compile, subject to availability of funds and personnel, and submit to the legislative coordinating commission by January 1 of each odd-numbered year a list showing, by bargaining unit, and by plan for executive branch employees covered by a plan established under section 43A.18, those female-dominated classes and those male-dominated classes in state civil service for which a compensation inequity exists based on comparability of the value of the work. The commissioner shall also submit to the legislative coordinating commission, along with the list, an estimate of the appropriation necessary for providing comparability adjustments for classes on the list. The commission shall review and approve, disapprove, or modify the list and proposed appropriation. The commission's action must be submitted to the full legislature. The full legislature may approve, reject, or modify the commission's action. The commission shall show the distribution of the proposed appropriation among the bargaining units and among the plans established under 43A.18. Each bargaining unit and each plan must be allocated that proportion of the total proposed appropriation that equals the cost of providing adjustments for the positions in the unit or plan approved by the commission for comparability adjustments divided by the total cost of providing adjustments for all positions on the list approved by the commission for comparability adjustments. Distribution of any appropriated funds within each bargaining unit or plan must be determined by collective bargaining agreements or by plans.

Subd. 6. Allocation. The amount recommended by the legislative coordinating commission pursuant to subdivision 5 to make comparability adjustments shall be submitted to the full legislature by March 1 of each odd-numbered year. The legislature may accept, re-

ject, or modify the amount recommended. The commissioner of finance, in consultation with the commissioner of employee relations, shall allocate the amount appropriated by the legislature, on a pro rata basis, if necessary, to the proper accounts for distribution to incumbents of classes which have been approved for comparability adjustments.

Funds appropriated for purposes of comparability adjustments for state employees shall be drawn exclusively from and shall not be in addition to the funds appropriated for salary supplements or other employee compensation. Funds not used for purposes of comparability adjustments shall revert to the appropriate fund.

[For text of subd 7, see M.S.1994]

History: 1995 c 248 art 2 s 7

43A.06 POWERS AND RESPONSIBILITIES THROUGH THE LABOR RELATIONS BUREAU.

Subdivision 1. **General.** (a) The commissioner, through the labor relations bureau, shall perform the duties assigned to the commissioner by sections 3.855, 179A.01 to 179A.25 and this section.

(b) The deputy commissioner for the labor relations bureau shall be the state labor negotiator for purposes of negotiating and administering agreements with exclusive representatives of employees and shall perform any other duties delegated by the commissioner subject to the limitations in paragraph (c).

(c) In consultation with the commissioner of employee relations and except as specified in this paragraph, the board of trustees of the Minnesota state colleges and universities may exercise the powers under this section. The power and authority to engage in collective bargaining or to enter into interest arbitration remains with the commissioner of employee relations, who shall exercise those powers in consultation with the board of trustees of the Minnesota state colleges and universities.

[For text of subds 2 and 3, see M.S.1994]

Subd. 4. **Reports.** The commissioner shall report to the legislative coordinating commission pursuant to section 3.855.

[For text of subds 5 to 8, see M.S.1994]

History: 1995 c 212 art 4 s 64; 1995 c 248 art 2 s 7

43A.08 UNCLASSIFIED SERVICE.

Subdivision 1. **Unclassified positions.** Unclassified positions are held by employees who are:

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the office of strategic and long-range planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, and the board of trustees of the Minnesota state colleges and universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(10) officers and enlisted persons in the national guard;

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

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

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

(14) chaplains employed by the state;

(15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

(16) student workers;

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

(18) employees unclassified pursuant to other statutory authority;

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

(20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

Subd. 1a. Additional unclassified positions. Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; economic security; children, families, and learning; employee relations; trade and economic development; finance; health; human rights; labor and industry; natural resources; public safety; public service; human services; revenue; transportation; and veterans affairs; the housing finance and pollution control agencies; the state lottery; the state board of investment; the office of administrative hearings; the office of environmental assistance; the offices of the attorney general, secretary of state, state auditor, and state treasurer; the state board of technical colleges; the board of trustees of the Minnesota state colleges and universities; the higher education services office; the Minnesota center for arts education; and the Minnesota zoological board.

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

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

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

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

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

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

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

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

[For text of subds 1b to 4, see M.S.1994]

History: 1995 c 212 art 3 s 59; art 4 s 64; 1995 c 247 art 2 s 54; 1995 c 248 art 10 s 3; 1Sp1995 c 3 art 16 s 13

43A.10 EXAMINATIONS; ELIGIBILITY TO COMPETE.

[For text of subds 1 to 7, see M.S.1994]

Subd. 8. Eligibility for qualified disabled examinations. The commissioner shall establish alternative examination methods to assess the qualifications of applicants for a competitive open or competitive promotional examination who have a disability that does not prevent performance of the duties of the class but that cannot be accommodated in the regular examination process. Alternative examination methods offered must allow candidates for competitive open and competitive promotional exams to demonstrate possession of the same knowledge, skills, and abilities essential to satisfactory performance in the job class without compromising inferences about other candidates' qualifications.

History: 1995 c 248 art 10 s 4

43A.13 CERTIFICATION OF ELIGIBLES.

[For text of subds 1 to 5, see M.S.1994]

Subd. 6. Qualified disabled. The commissioner shall refer all qualified disabled candidates with eligibles from the competitive open or competitive promotional list established from the same examination announcement.

[For text of subds 7 to 9, see M.S.1994]

History: 1995 c 248 art 10 s 5

43A.15 NONCOMPETITIVE AND QUALIFYING APPOINTMENTS.

[For text of subds 1 to 13, see M.S.1994]

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

The commissioner may authorize the probationary appointment of a candidate based on the request of the appointing authority that documents that the candidate has successfully demonstrated qualifications for the position through completion of an on-the-job trial work experience. The implementation of this subdivision may not be deemed a violation of chapter 43A or 363.

History: 1995 c 248 art 10 s 6

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

[For text of subds 1 to 8, see M.S.1994]

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 coordinating commission 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 subds 10 to 12, see M.S.1994]

History: 1995 c 248 art 2 s 7

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

[For text of subd 1, see M.S.1994]

Subd. 2. Unrepresented nonmanagerial employee plan. Except as provided in section 43A.01, the compensation, terms and conditions of employment for all classified and unclassified employees, except unclassified employees in the legislative and judicial branches, who are not covered by a collective bargaining agreement and not otherwise provided for in chapter 43A or other law are governed solely by a plan developed by the commissioner. The legislative coordinating commission shall review and approve, reject, or modify the plan under section 3.855, subdivision 2. The plan need not be adopted in accordance with the rulemaking provisions of chapter 14.

Subd. 3. Managerial plan. (a) The commissioner shall identify individual positions or groups of positions in the classified and unclassified service in the executive branch as being managerial. The list must not include positions listed in subdivision 4.

(b) The commissioner shall periodically prepare a plan for total compensation and terms and conditions of employment for employees of those positions identified as being managerial and whose salaries and benefits are not otherwise provided for in law or other plans established under this chapter. Before becoming effective those portions of the plan establishing compensation and terms and conditions of employment must be reviewed and

approved or modified by the legislative coordinating commission and the legislature under section 3.855, subdivisions 2 and 3.

(c) Incumbents of managerial positions as identified under this subdivision must be excluded from any bargaining units under chapter 179A.

(d) The management compensation plan must provide methods and levels of compensation for managers that will be generally comparable to those applicable to managers in other public and private employment. The plan must ensure that compensation within assigned salary ranges is related to level of performance. The plan must also provide a procedure for establishment of a salary rate for a newly created position and a new appointee to an existing position and for progression through assigned salary ranges. The employee benefits established under the provisions of the managerial plan may be extended to agency heads whose salaries are established in section 15A.081, subdivision 1, and to constitutional officers, judges of the workers' compensation court of appeals, and tax court judges.

Subd. 3a. Board of trustees of the Minnesota state colleges and universities plan. Total compensation for unclassified managerial positions under section 43A.08, subdivision 1, clause (9), in the board of trustees of the Minnesota state colleges and universities not covered by a collective bargaining agreement must be determined by the board of trustees of the Minnesota state colleges and universities. Before submitting a compensation plan to the legislature and the legislative commission on employee relations, the board of trustees of the Minnesota state colleges and universities must submit the plan to the commissioner of employee relations for review and comment. The commissioner must complete the review within 14 days of its receipt. Compensation plans established under this subdivision must be approved by the legislature and the legislative commission on employee relations under section 3.855, before becoming effective.

Subd. 4. Plans not established but approved by commissioner. (a) Notwithstanding any other law to the contrary, terms and conditions of employment 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 (c) and (d), must be reviewed and approved, modified, or rejected by the legislature and the legislative commission on employee relations under section 3.855, subdivision 2, before becoming effective.

(b) 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.

(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 services office must be determined by the higher education services office.

[For text of subds 4a to 8, see M.S.1994]

History: 1995 c 212 art 3 s 59; art 4 s 64; 1995 c 248 art 2 s 7

43A.19 AFFIRMATIVE ACTION.

Subdivision 1. Statewide affirmative action program. (a) To assure that positions in the executive branch of the civil service are equally accessible to all qualified persons, and to eliminate the underutilization of qualified members of protected groups, the commissioner shall adopt and periodically revise, if necessary, a statewide affirmative action program. The statewide affirmative action program must consist of at least the following:

- (1) objectives, goals, and policies;
- (2) procedures, standards, and assumptions to be used by agencies in the preparation of agency affirmative action plans, including methods by which goals and timetables are established;
- (3) the analysis of separation patterns to determine the impact on protected group members; and

(4) requirements for annual objectives and submission of affirmative action progress reports from heads of agencies.

(b) The commissioner shall base affirmative action goals on at least the following factors:

(1) the percentage of members of each protected class in the recruiting area population who have the necessary skills;

(2) the availability for promotion or transfer of members of protected classes in the recruiting area population;

(3) the extent of unemployment of members of protected classes in the recruiting area population;

(4) the existence of training programs in needed skill areas offered by employing agencies and other institutions; and

(5) the expected number of available positions to be filled.

(c) The commissioner shall designate a state director of diversity and equal employment opportunity who may be delegated the preparation, revision, implementation, and administration of the program. The commissioner of employee relations may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

[For text of subd 3, see M.S.1994]

History: 1995 c 248 art 10 s 7

43A.191 AGENCY AFFIRMATIVE ACTION PROGRAMS.

Subdivision 1. Affirmative action officers. (a) Each agency with 1,000 employees or more shall have at least one full-time affirmative action officer, who shall have primary responsibility for developing and maintaining the agency's affirmative action plan. The officer shall devote full time to affirmative action activities. The affirmative action officer shall report administratively and on policy issues directly to the agency head.

(b) The agency heads shall assign affirmative action officers or designees for agencies with fewer than 1,000 employees. The designees shall report administratively and on policy issues directly to the agency head.

(c) An agency may not use authority under section 43A.08, subdivision 1a, to place the position of an agency affirmative action officer or designee in the unclassified service.

Subd. 2. Agency affirmative action plans. (a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3.

(b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion of qualified disabled persons. The reasonable accommodation plan must consist of at least the following:

(1) procedures for compliance with section 363.03 and, where appropriate, regulations implementing United States Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended and the Americans with Disabilities Act, United States Code, title 42, sections 101 to 108, 201 to 231, 241 to 246, 401, 402, and 501 to 514;

(2) methods and procedures for providing reasonable accommodation for disabled job applicants, current employees, and employees seeking promotion; and

(3) provisions for funding reasonable accommodations.

(c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of diversity and equal employment opportunity. The council on disability shall provide assistance with the agency reasonable accommodation plan.

(d) The agency plan must identify any positions in the agency that can be used for supported employment as defined in section 268A.01, subdivision 13, of persons with severe disabilities. The agency shall report this information to the commissioner. An agency that

hires more than one supported worker in the identified positions must receive recognition for each supported worker toward meeting the agency's affirmative action goals and objectives.

(e) An agency affirmative action plan may not be implemented without the commissioner's approval.

Subd. 3. Audits; sanctions and incentives. (a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements.

(b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the finance committee of the senate, the appropriations committee of the house of representatives, the governmental operations committees of both houses of the legislature, and the legislative commission on employee relations. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 13, and cover each agency's rate of compliance with affirmative action requirements.

(c) An agency that does not meet its hiring goals must justify its nonaffirmative action hires in competitive and noncompetitive appointments according to criteria issued by the department of employee relations. "Missed opportunity" includes failure to justify a nonaffirmative action hire. An agency must have 25 percent or less missed opportunities in competitive appointments and 25 percent or less missed opportunities in appointments made under sections 43A.08, subdivisions 1, clauses (9), (11), and (16); and 2a; and 43A.15, subdivisions 3, 10, 12, and 13. In addition, an agency shall:

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

(2) implement a coordinated retention plan; and

(3) have an established complaint resolution procedure.

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

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

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

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

History: 1995 c 248 art 10 s 8-10

43A.211 MINNESOTA QUALITY COLLEGE.

Subdivision 1. Purpose; goals. The Minnesota quality college is a program in the department of employee relations to provide information on continuous quality improvement training resources to state officials and employees in executive agencies. It is managed by the board established by subdivision 2. The purpose of the program is to help agencies, officials, and employees achieve the mission and goals of their governmental unit, improve government's responsiveness to citizens, increase workplace innovation at the employee level, increase productivity, improve public leadership and employee involvement, and build pride in public service. Its goals are to encourage cost savings and cost sharing among its clients, to help clients ensure that money for quality improvement training is wisely spent, and to develop and maintain a curriculum that provides a base for the continuous improvement of quality skills in Minnesota's public workforce. The curriculum must be based on a philosophy of quality that has these components: customer focus, continuous improvement, and employee empowerment and leadership. The board shall ensure that state agencies and employees have access to and are provided with information on quality resources, encourage sharing and in-

teragency cooperation, and provide high-quality and ongoing training on how to apply the philosophy of quality in public service.

Subd. 2. Management. The commissioner shall convene a board to manage the college. The board must consist of the commissioner; a commissioner from another agency appointed by the governor; a private citizen experienced in the application of the quality philosophy, appointed by the governor; a representative of the exclusive representatives of employees in the executive branch, selected by the exclusive representatives; and two representatives of management-level executive agency employees, selected by the commissioner. The board shall take action based on a consensus of its members present. The board shall identify training needs and potential resources to provide different levels of training depending on the requirements and stage of development of each customer. Levels of training may include basic quality training, special management training, refresher courses, coaching, organizational culture change, and applying quality tools. The board shall attempt to design a model curriculum, specific components and resources to achieve the curriculum, and specific programs within that curriculum to meet the expressed needs of customers.

Subd. 3. Customers. The primary customers of the college are Minnesota state agencies, officials, and employees. The board may extend services to local governmental units, federal agencies, educational institutions, and nonprofit organizations within Minnesota, but shall first ensure that the needs of their primary customers are adequately met. The curriculum must be organized to meet the needs of five separate groups of customers: elected officials, appointed officials, managers, quality professionals, and public employees.

Subd. 4. Suppliers. The board may draw upon a range of training resources, including:

- (1) staff of the customer agency itself;
- (2) other agencies, including courses offered by the department or the organizational analysis services of the management analysis division of the department of administration;
- (3) Minnesota public and private higher education institutions;
- (4) private consultants;
- (5) professional organizations; and
- (6) local governmental units and federal agencies.

History: 1995 c 254 art 1 s 64

NOTE: This section is repealed by Laws 1995, chapter 254, article 1, section 97, effective July 1, 1999.

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

[For text of subd 1, see M.S.1994]

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;

(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; and

(k) employees of the data institute under section 62J.45, subdivision 8, as paid for by the data institute.

History: 1995 c 248 art 10 s 11

43A.27 ELIGIBILITY FOR INDIVIDUAL PAID INSURANCE AND BENEFITS.*[For text of subd 1, see M.S.1994]*

Subd. 2. Elective eligibility. The following persons, if not otherwise covered by section 43A.24, may elect coverage for themselves or their dependents at their own expense:

(a) a state employee, including persons on layoff from a civil service position as provided in collective bargaining agreements or a plan established pursuant to section 43A.18;

(b) an employee of the board of regents of the University of Minnesota, including persons on layoff, as provided in collective bargaining agreements or by the board of regents;

(c) an officer or employee of the state agricultural society, state horticultural society, Sibley house association, Minnesota humanities commission, Minnesota area industry labor management councils, Minnesota international center, Minnesota academy of science, science museum of Minnesota, Minnesota safety council, state office of disabled American veterans, state office of the American Legion and its auxiliary, state office of veterans of foreign wars and its auxiliary, or state office of the Military Order of the Purple Heart;

(d) a civilian employee of the adjutant general who is paid from federal funds and who is not eligible for benefits from any federal civilian employee group life insurance or health benefits program; and

(e) an officer or employee of the state capitol credit union or the highway credit union.

Subd. 3. Retired employees. A retired employee of the state who receives an annuity under a state retirement program or a retired employee of the state who is at least 50 years of age and has at least 15 years of state service may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages that are actuarially equivalent to those made available through collective bargaining agreements or plans established pursuant to section 43A.18 to employees in positions equivalent to that from which retired. A spouse of a deceased retired employee who received an annuity under a state retirement program may purchase the coverage listed in this subdivision if the spouse was a dependent under the retired employee's coverage at the time of the employee's death. Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Until the retired employee reaches age 65, the retired employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. Coverage for retired employees and their dependents may not discriminate on the basis of evidence of insurability or preexisting conditions unless identical conditions are imposed on active employees in the group that the employee left. Appointing authorities shall provide notice to employees no later than the effective date of their retirement of the right to exercise the option provided in this subdivision. The retired employee must notify the commissioner or designee of the commissioner within 30 days after the effective date of the retirement of intent to exercise this option.

*[For text of subs 4 to 6, see M.S.1994]***History: 1995 c 254 art 1 s 65,66**

NOTE: Subdivision 3 was also amended by Laws 1995, chapter 248, article 10, section 12, to read as follows:

"Subd. 3. **Retired employees.** A retired employee of the state or an organization listed in subdivision 2 or section 43A.24, subdivision 2, who, at separation of service:

(1) is immediately eligible to receive an annuity under a retirement program sponsored by the state or such organization of the state and immediately meets the age and service requirements in section 352.115, subdivision 1; and

(2) has five years of service or meets the service requirement of the collective bargaining agreement or plan, whichever is greater;

may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages. The commissioner shall offer at least one plan which is actuarially equivalent to those made available through collective bargaining agreements or plans established pursuant to section 43A.18 to employees in positions equivalent to that from which retired. A spouse of a deceased retired employee who received an annuity under a state retirement program may purchase the coverage listed in this subdivision if the spouse was a dependent under the retired employee's coverage at the time of the employee's death. Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Until the retired employee reaches age 65, the retired employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. Coverage for retired employees and their dependents may not discriminate on the basis of evidence of insurability or preexisting conditions unless identical conditions are imposed

on active employees in the group that the employee left. Appointing authorities shall provide notice to employees no later than the effective date of their retirement of the right to exercise the option provided in this subdivision. The retired employee must notify the commissioner or designee of the commissioner within 30 days after the effective date of the retirement of intent to exercise this option."

43A.316 PUBLIC EMPLOYEES INSURANCE PROGRAM.

Subdivision 1. Intent. The legislature finds that the creation of a statewide program to provide public employees and other eligible persons with life insurance and hospital, medical, and dental benefit coverage through provider organizations would result in a greater utilization of government resources and would advance the health and welfare of the citizens of the state.

Subd. 2. Definitions. For the purpose of this section, the terms defined in this subdivision have the meaning given them.

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

(b) **Employee.** "Employee" means:

(1) a person who is a public employee within the definition of section 179A.03, subdivision 14, who is insurance eligible and is employed by an eligible employer;

(2) an elected public official of an eligible employer who is insurance eligible; or

(3) a person employed by a labor organization or employee association certified as an exclusive representative of employees of an eligible employer or by another public employer approved by the commissioner, so long as the plan meets the requirements of a governmental plan under United States Code, title 29, section 1002(32).

(c) **Eligible employer.** "Eligible employer" means:

(1) a public employer within the definition of section 179A.03, subdivision 15, that is a town, county, city, school district as defined in section 120.02, service cooperative as defined in section 123.582, intermediate district as defined in section 136C.02, subdivision 7, cooperative center for vocational education as defined in section 123.351, regional management information center as defined in section 121.935, or an education unit organized under the joint powers action, section 471.59; or

(2) an exclusive representative of employees, as defined in paragraph (b); or

(3) another public employer approved by the commissioner.

(d) **Exclusive representative.** "Exclusive representative" means an exclusive representative as defined in section 179A.03, subdivision 8.

(e) **Labor-management committee.** "Labor-management committee" means the committee established by subdivision 4.

(f) **Program.** "Program" means the statewide public employees insurance program created by subdivision 3.

Subd. 3. Public employee insurance program. The commissioner shall be the administrator of the public employee insurance program and may determine its funding arrangements. The commissioner shall model the program after the plan established in section 43A.18, subdivision 2, but may modify that plan, in consultation with the labor-management committee.

Subd. 4. Labor-management committee. The labor-management committee consists of ten members appointed by the commissioner. The labor-management committee must comprise five members who represent employees, including at least one retired employee, and five members who represent eligible employers. Committee members are eligible for expense reimbursement in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. The commissioner shall consult with the labor-management committee in major decisions that affect the program. The committee shall study issues relating to the insurance program including, but not limited to, flexible benefits, utilization review, quality assessment, and cost efficiency.

Subd. 5. Public employee participation. (a) Participation in the program is subject to the conditions in this subdivision.

(b) Each exclusive representative for an eligible employer determines whether the employees it represents will participate in the program. The exclusive representative shall give the employer notice of intent to participate at least 30 days before the expiration date of the

collective bargaining agreement preceding the collective bargaining agreement that covers the date of entry into the program. The exclusive representative and the eligible employer shall give notice to the commissioner of the determination to participate in the program at least 30 days before entry into the program. Entry into the program is governed by a schedule established by the commissioner.

(c) Employees not represented by exclusive representatives may become members of the program upon a determination of an eligible employer to include these employees in the program. Either all or none of the employer's unrepresented employees must participate. The eligible employer shall give at least 30 days' notice to the commissioner before entering the program. Entry into the program is governed by a schedule established by the commissioner.

(d) Participation in the program is for a two-year term. Participation is automatically renewed for an additional two-year term unless the exclusive representative, or the employer for unrepresented employees, gives the commissioner notice of withdrawal at least 30 days before expiration of the participation period. A group that withdraws must wait two years before rejoining. An exclusive representative, or employer for unrepresented employees, may also withdraw if premiums increase 50 percent or more from one insurance year to the next.

(e) The exclusive representative shall give the employer notice of intent to withdraw to the commissioner at least 30 days before the expiration date of a collective bargaining agreement that includes the date on which the term of participation expires.

(f) Each participating eligible employer shall notify the commissioner of names of individuals who will be participating within two weeks of the commissioner receiving notice of the parties' intent to participate. The employer shall also submit other information as required by the commissioner for administration of the program.

Subd. 6. Coverage. (a) By January 1, 1989, the commissioner shall announce the benefits of the program. The program shall include employee hospital, medical, dental, and life insurance for employees and hospital and medical benefits for dependents. Health maintenance organization options and other delivery system options may be provided if they are available, cost-effective, and capable of servicing the number of people covered in the program. Participation in optional coverages may be provided by collective bargaining agreements. For employees not represented by an exclusive representative, the employer may offer the optional coverages to eligible employees and their dependents provided in the program.

(b) The commissioner, with the assistance of the labor-management committee, shall periodically assess whether it is financially feasible for the program to offer or to continue an individual retiree program that has competitive premium rates and benefits. If the commissioner determines it to be feasible to offer an individual retiree program, the commissioner shall announce the applicable benefits, premium rates, and terms of participation. Eligibility to participate in the individual retiree program is governed by subdivision 8, but applies to retirees of eligible employers that do not participate in the program and to those retirees' dependents and surviving spouses.

Subd. 6a. Chiropractic services. All benefits provided by the program or a successor program relating to expenses incurred for medical treatment or services of a physician must also include chiropractic treatment and services of a chiropractor to the extent that the chiropractic services and treatment are within the scope of chiropractic licensure.

This subdivision is intended to provide equal access to benefits for program members who choose to obtain treatment for illness or injury from a doctor of chiropractic, as long as the treatment falls within the chiropractor's scope of practice. This subdivision is not intended to change or add to the benefits provided for in the program.

Subd. 7. Premiums. The proportion of premium paid by the employer and employee is subject to collective bargaining or personnel policies. If, at the beginning of the coverage period, no collective bargaining agreement has been finalized, the increased dollar costs, if any, from the previous year is the sole responsibility of the individual participant until a collective bargaining agreement states otherwise. Premiums, including an administration fee, shall be established by the commissioner. Each employer shall pay monthly the amounts due

for employee benefits including the amounts under subdivision 8 to the commissioner no later than the dates established by the commissioner. If an employer fails to make the payments as required, the commissioner may cancel program benefits and pursue other civil remedies.

Subd. 8. Continuation of coverage. (a) A former employee of an employer participating in the program who is receiving a public pension disability benefit or an annuity or has met the age and service requirements necessary to receive an annuity under chapter 353, 353C, 354, 354A, 356, 422A, 423, 423A, or 424, and the former employee's dependents, are eligible to participate in the program. This participation is at the person's expense unless a collective bargaining agreement or personnel policy provides otherwise. Premiums for these participants must be established by the commissioner.

The commissioner may provide policy exclusions for preexisting conditions only when there is a break in coverage between a participant's coverage under the employment-based group insurance program and the participant's coverage under this section. An employer shall notify an employee of the option to participate under this paragraph no later than the effective date of retirement. The retired employee or the employer of a participating group on behalf of a current or retired employee shall notify the commissioner within 30 days of the effective date of retirement of intent to participate in the program according to the rules established by the commissioner.

(b) The spouse of a deceased employee or former employee may purchase the benefits provided at premiums established by the commissioner if the spouse was a dependent under the employee's or former employee's coverage under this section at the time of the death. The spouse remains eligible to participate in the program as long as the group that included the deceased employee or former employee participates in the program. Coverage under this clause must be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The program benefits must continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

(d) A participant who discontinues coverage may not reenroll.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Subd. 9. Insurance trust fund. The insurance trust fund in the state treasury consists of deposits of the premiums received from employers participating in the program and transfers before July 1, 1994, from the excess contributions holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. Premiums paid by employers to the fund are exempt from the tax imposed by sections 60A.15 and 60A.198. The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

Subd. 10. Exemption. The public employee insurance program and, where applicable, the employers participating in it are exempt from chapters 60A, 62A, 62C, 62D, 62E, and 62H, section 471.617, subdivisions 2 and 3, and the bidding requirements of section 471.6161.

History: 1995 c 248 art 10 s 13; 1Sp1995 c 3 art 13 s 1

43A.317 MINNESOTA EMPLOYEES INSURANCE PROGRAM.

[For text of subs 1 to 4, see M.S.1994]

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 may be for up to two years from the effective date of the employer's application. After that, coverage will be automatically renewed for an additional term unless the employer gives notice of withdrawal from the pro-

gram 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 term, including by reason of an increase in health coverage premiums of 50 percent or more from one insurance year to the next. An employer that withdraws from the program may not reapply for coverage for a period of time equal to its initial term of coverage.

(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 subs 6 to 12, see M.S.1994]

History: 1995 c 248 art 10 s 14