

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

Subdivision 1. **Salary limits.** As used in subdivisions 1 to 9, "salary" means hourly, monthly, or annual rate of pay including any lump-sum payments and cost-of-living adjustment increases but excluding payments due to overtime worked, shift or equipment differentials, work out of class as required by collective bargaining agreements or plans established under section 43A.18, and back pay on reallocation or other payments related to the hours or conditions under which work is performed rather than to the salary range or rate to which a class is assigned. For presidents of state universities, "salary" does not include a housing allowance provided through a compensation plan approved under section 43A.18, subdivision 3a.

The salary, as established in section 15A.0815, of the head of a state agency in the executive branch is the upper limit on the salaries of individual employees in the agency. However, if an agency head is assigned a salary that is lower than the current salary of another agency employee, the employee retains the salary, but may not receive an increase in salary as long as the salary is above that of the agency head. The commissioner may grant exemptions from these upper limits as provided in subdivisions 3 and 4.

Subd. 2. **General compensation.** For classes or positions covered under the provisions of section 43A.18, subdivision 1, the commissioner shall negotiate compensation. For classes or positions covered under the provisions of section 43A.18, subdivisions 2 and 3, the commissioner shall establish compensation. Employees covered under section 43A.18 shall receive salary at the appropriate single rate or within the limits of the salary range to which their class is assigned or their position compared except for any lump-sum payments including cost of living lump-sum payments. The commissioner may grant further exemptions from this subdivision as provided in subdivisions 3, 5, 6, and 7.

Subd. 3. **Unusual employment situations.** (a) Upon the request of the appointing authority, and when the commissioner determines that changes in employment situations create difficulties in attracting or retaining employees, the commissioner may approve an unusual employment situation increase to advance an employee within the compensation plan.

(b) If the commissioner determines that a position requires special expertise necessitating a higher salary to attract or retain qualified persons, the commissioner may grant an exemption not to exceed 120 percent of the salary of the head of the agency or the maximum rate established for the position, whichever is less.

(c) The following conditions apply to a request under paragraph (a) to advance an employee within a compensation plan or under paragraph (b) to exceed the salary of the agency head:

(1) the appointing authority making the request must submit a detailed written statement for each position contained in the request, specifying the changes in employment situations that create difficulties in attracting or retaining an employee for the position;

(2) the commissioner shall review each proposal giving due consideration to salary rates paid to other employees in the same class and agency and, if other conditions in this paragraph are met, may approve any request that in the commissioner's judgment is in the best interest of the state;

(3) the action must be consistent with applicable provisions of collective bargaining agreements or plans adopted under section 43A.18;

(4) each increase or exemption must be separately documented for each employee or position and may not be applied to groups of employees; and

(5) the commissioner shall report the granting of a request to the chair of the Legislative Coordinating Commission within three working days.

Subd. 4. **Exceptions.** (a) The commissioner may without regard to subdivision 1 establish special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine and doctors of dental surgery. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified employees in the following positions:

- (1) information systems staff;
- (2) actuaries in the Departments of Health, Human Services, and Commerce; and
- (3) epidemiologists in the Department of Health.

Subd. 5. **Salary on demotion; special cases.** The commissioner may, upon request of an appointing authority, approve payment of an employee with permanent status at a salary rate above the maximum of the class to which the employee is demoted. The commissioner shall take such action as required by collective bargaining agreements or plans pursuant to section 43A.18. If the action is justified by the employee's long or outstanding service, exceptional or technical qualifications, age, health, or substantial changes in work assignment beyond the control of the employee, the commissioner may approve a rate up to and including the employee's salary immediately prior to demotion. Thereafter, so long as the employee remains in the same position, the employee shall not be eligible to receive any increase in salary until the employee's salary is within the range of the class to which the employee's position is allocated unless such increases are specifically provided in collective bargaining agreements or plans pursuant to section 43A.18.

Subd. 6. **Salary on transfer.** The commissioner may authorize an employee transferring between two classes established as equivalent for purposes of transfer to retain a rate of compensation above the maximum of the range of the class to which the employee is transferring. The commissioner shall take such action as required by a collective bargaining agreement or plans pursuant to section 43A.18. Thereafter, so long as the employee remains in the same class, the employee shall receive an increase in salary only as provided pursuant to applicable collective bargaining agreements or plans pursuant to section 43A.18, until the employee's salary is within the range of the class to which the position is allocated.

Subd. 7. **Injured on duty pay.** Notwithstanding section 176.021, subdivision 5, the commissioner may provide for injured on duty pay through collective bargaining agreements or plans pursuant to section 43A.18.

Subd. 8. **Accumulated vacation leave.** The commissioner shall not agree to a collective bargaining agreement or recommend a compensation plan pursuant to section 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections 179A.01 to 179A.25, if the compensation plan, agreement, or award permits an employee to convert accumulated vacation leave into cash before separation from state service.

This section does not prohibit the commissioner from negotiating a collective bargaining agreement or recommending approval of a compensation plan which: (1) permits an employee to receive payment for accumulated vacation leave upon beginning an unpaid leave of absence approved for more than one year in duration if the leave of absence is not for the purpose of accepting an unclassified position in state civil service; (2) permits an employee to receive payment for accumulated vacation leave upon layoff; or (3) permits an employee to receive payment for accumulated vacation leave if a change in employment results in the employee being ineligible to accrue further vacation leave.

Subd. 9. Political subdivision compensation limit. (a) The salary and the value of all other forms of compensation of a person employed by a political subdivision of this state, excluding a school district, may not exceed 110 percent of the salary of the governor as set under section 15A.082, except as provided in this subdivision. For purposes of this subdivision, "political subdivision of this state" includes a statutory or home rule charter city, county, town, metropolitan or regional agency, or other political subdivision, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit.

(b) Beginning in 2006, the limit in paragraph (a) must be adjusted annually in January. The limit must equal the limit for the prior year increased by the percentage increase, if any, in the Consumer Price Index for all-urban consumers from October of the second prior year to October of the immediately prior year.

(c) 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 must 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 must 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 is the annual cost to the political subdivision for the provision of the compensation.

(d) 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.

(e) 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 made no recommendation. If the commissioner grants or granted an increase under this paragraph, the new limitation must be adjusted beginning in August 2005 and in each subsequent calendar year in January by the percentage increase equal to the percentage increase, if any, in the Consumer Price Index for all-urban consumers from October of the second prior year to October of the immediately prior year.

Subd. 10. Local elected officials; certain compensation prohibited. The compensation plan for an elected official of a statutory or home rule charter city, county, or town may not include a provision for vacation or sick leave. The salary of an official covered by this subdivision may not be diminished because of the official's absence from official duties because of vacation or sickness.

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 paragraph (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. [Repealed, 1999 c 221 s 9]

History: 1981 c 210 s 17; 1982 c 560 s 26; 1983 c 299 s 12-14; 1984 c 462 s 27; 1Sp1985 c 17 s 7; 1986 c 444; 1988 c 667 s 7,8; 1990 c 571 s 20,21; 1992 c 505 s 1; 1992 c 549 art 5 s 2; 1993 c 315 s 5,6; 1993 c 345 art 5 s 2; 1995 c 248 art 2 s 7; 1996 c 425 s 4; 1997 c 202 art 2 s 33; 2Sp1997 c 3 s 9,10; 1998 c 351 s 2; 1998 c 366 s 49; 1998 c 398 art 5 s 1,2; 1999 c 182 s 11; 1999 c 221 s 3; 1Sp2003 c 1 art 2 s 60; 2005 c 169 s 1; 2006 c 282 art 16 s 1; 2008 c 204 s 16; 2010 c 359 art 12 s 4