

43A.15 NONCOMPETITIVE AND QUALIFYING APPOINTMENTS.

Subdivision 1. **General.** Positions in the classified service may be filled other than by appointment from a finalist pool only as provided in this section or other law, provided that appointments made pursuant to subdivisions 5, 6, 10, 12, and 13 shall be subject to applicable provisions of collective bargaining agreements.

Subd. 2. **Emergency appointments.** An appointing authority may make an emergency appointment for up to 45 working days. No person may be employed in any one agency on an emergency basis for more than 45 working days in any 12-month period.

Subd. 3. **Temporary appointments.** The commissioner may authorize an appointing authority to make a temporary appointment of up to six months. The commissioner may, in the best interest of the state, grant an extension of a temporary appointment or approve a temporary appointment to fill a vacancy created by an approved leave of absence to a maximum period of one year. When practicable, the appointing authority may search the employment database for qualified applicants or, when necessary, the commissioner may authorize the appointment of any person deemed qualified by the appointing authority.

No person shall be employed on a temporary basis in any one agency for more than 12 months in any 24-month period.

Subd. 4. **Provisional appointments.** The commissioner may authorize an appointing authority to make a provisional appointment if no applicant is suitable or available for appointment and the person to be provisionally appointed is qualified in all respects except for completion of a licensure or certification requirement.

No person shall be employed on a provisional basis for more than six months unless the commissioner grants an extension to a maximum of 12 months in the best interest of the state. No extension may be granted beyond 12 months except where there is a lack of applicants and the provisional appointee is continuing to work to complete the licensure or certification requirement.

At the request of an appointing authority, the commissioner may authorize the probationary appointment of a provisional appointee who has performed satisfactorily for at least 60 days and has completed the licensure or certification requirement.

Subd. 5. **Noncompetitive promotions.** The commissioner may authorize an appointing authority to promote the incumbent with permanent or probationary status to a reallocated classified position.

Subd. 6. **Appointments through transfer or demotion.** The commissioner may authorize the transfer or demotion of an employee in the classified service within an agency or between agencies. Prior to authorizing a transfer or demotion, the commissioner shall determine that the employee to be transferred or demoted is qualified for the new position. An authorized transfer may result in the movement of an employee between agencies in the same class or between or within agencies in different classes provided that the compensation for the classes is similar.

The commissioner may enter into arrangements with public personnel agencies in other jurisdictions for the purpose of effecting transfers or voluntary demotions of employees between jurisdictions.

Subd. 7. **Appointments for unclassified incumbents of newly classified positions.** The commissioner may authorize the probationary appointment of an incumbent who has passed a qualifying selection process and who has served at least one year in an unclassified position which has been placed in the classified service by proper authority.

Subd. 8. [Repealed, 2004 c 207 s 31]

Subd. 9. [Repealed, 2004 c 207 s 31]

Subd. 10. **Routine service.** The commissioner may authorize the administration of a qualifying selection process if a class is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level.

Subd. 11. [Repealed, 2004 c 207 s 31]

Subd. 12. **Work-training appointments.** The commissioner may authorize the probationary appointment of persons who successfully complete on-the-job state training programs which have been approved by the commissioner.

Subd. 13. **Revenue seasonal employees.** The commissioner may authorize the administration of a qualifying selection process for the filling of seasonal positions in the Department of Revenue used in the processing of returns and providing information during the tax season. The commissioner of revenue may consider any candidate found qualified through this process for probationary appointment.

Subd. 14. **On-the-job demonstration process and appointment.** The commissioner shall establish qualifying procedures for applicants whose disabilities are of such a severe nature that the applicants are unable to demonstrate their abilities in the selection process. The qualifying procedures must consist of up to 700 hours on-the-job trial work experience 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 selection procedure. This on-the-job demonstration process must be limited to applicants for whom there is no reasonable accommodation in the selection process.

The commissioner may authorize the probationary appointment of an applicant based on the request of the appointing authority that documents that the applicant 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 363A.

Subd. 15. **Reinstatement.** An appointing authority may directly reinstate a person who is a former permanent or probationary employee of the job class, within four years of separation from the class. The four-year limitation does not apply to former permanent or probationary employees of the class who are receiving disability benefits under a state retirement plan.

History: 1981 c 210 s 15; 1982 c 560 s 24,25; 1Sp1985 c 13 s 168; 1988 c 667 s 6; 1990 c 571 s 19; 1995 c 248 art 10 s 6; 1999 c 182 s 9,10; 2004 c 207 s 18-24; 2005 c 144 s 2