

## Civil Service

## CHAPTER 43

## CIVIL SERVICE, STATE EMPLOYEES

Sec.		Sec.	
43.01	Definitions	43.23	Seniority rights; positions abolished; preference
43.02	Composition of department	43.24	Removal
43.03	Civil service board created	43.25	Director notified of any discharge or employment
43.041	Director	43.26	Payrolls, certification
43.05	Duties and powers of director	43.27	Compliance with law
43.051	Age for retirement	43.28	Political activities prohibited
43.06	Board; duties, powers	43.29	Accommodations furnished examiners
43.07	Testimonial powers	43.30	Veterans preference
43.08	Salaries	43.31	Services available to political subdivisions; appropriation
43.09	Unclassified service; classified service	43.32	Training program
43.10	Tenure	43.34	Laws superseded
43.111	Policy	43.35	Violations; penalties
43.12	Director to classify employees		LIFE AND HEALTH BENEFITS
43.121	Salary range assignment	43.42	Insurance benefits intent
43.122	Annual review	43.43	Definitions
43.126	Special rates of pay	43.44	Enrollment of eligible employees
43.13	Examinations	43.45	Contracting authority
43.14	Examination refused; appeal; bond	43.46	Contributions by state
43.15	Political or religious discrimination forbidden	43.47	Exclusion of certain state employees
43.16	Oath	43.48	Administration
43.17	Appointments	43.49	Reports and audits
43.18	Vacancies	43.491	Optional coverages for noneligible state employees
43.19	Vacancies; promotions; dismissals	43.50	Payment of premiums
43.20	Non-competitive positions		
43.21	Probationary period		
43.22	Transfers; leaves of absence; reinstatement		
43.221	Longevity increase; certain employees		
43.222	Transfer; sick leave benefits in certain cases		

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

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

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

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

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

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

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

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

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

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

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

Subd. 12. **Class.** "Class" means one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with clarity to designate each position allocated to the class, that the same general qualifications are needed for performance of the duties of the class, that the same tests of fitness may be used to recruit employees, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

Subd. 13. **Allocation.** "Allocation" means the assignment of an individual

# MINNESOTA STATUTES 1967

475

## CIVIL SERVICE, STATE EMPLOYEES 43.041

position to an appropriate class on the basis of the kind, difficulty, or responsibility of the work performed in the position.

Subd. 14. **Reallocation.** "Reallocation" means a reassignment, or change in allocation, of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of significant changes in the kind, difficulty, or responsibility of the work performed in such position.

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

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

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

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

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

Each member of the board shall be paid \$25 per day for each day actually devoted to duties as a member of the board, but in no case shall any member be paid more than \$750 in any one year; provided, that this limitation shall not apply to payments on account of expenses. Members of the board shall be paid for expenses in travel to and from meetings and for necessary expenses incurred during meetings of the board.

[1939 c 441 s 3; 1957 c 240 s 1] (254-51)

**43.04** [Repealed, 1955 c 596 s 2]

**43.041 DIRECTOR.** The director of the state civil service shall be appointed by the civil service board for a term of six years on the basis of merit and fitness, after an open, competitive examination, open to qualified persons without regard to residence and without regard to the provisions of section 43.30, or 197.45 to 197.48, or acts amendatory thereof or supplementary thereto. Whenever a vacancy

exists in the office of the director of the state civil service, the civil service board shall appoint an examining committee of three persons to examine the qualifications of all persons applying for appointment to the office of director of the state civil service. The examining committee shall be composed of persons of recognized standing as administrators or personnel officials in either the public service or private industry and may be nonresidents of the state. As soon as practicable after its appointment, the examining committee shall examine applicants for the position of director of the state civil service and certify to the board the names of not less than three nor more than five persons rated highest in the competitive tests and found by the committee to possess the necessary qualifications for the office of director of the state civil service. The board by and with the advice and consent of the senate shall then appoint one of the persons so certified to the office of director of the state civil service. No person who has not been examined and certified by an examining committee, as herein provided for, shall be appointed to the office of director of the state civil service. The civil service board shall fix the compensation and authorize the payment of expenses of members of the examining committee provided for in this section. Upon the expiration of his six year term, the director may be reappointed without further examination by the board by and with the advice and consent of the senate.

The director of the state civil service shall be in the classified service and be subject to Minnesota Statutes, Section 43.24.

[1955 c 596 s 1]

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

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

- (1) To attend all meetings of the board;
- (2) To prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this chapter; these rules shall provide, among other things, for current records of efficiency, and standards of performance, for all officers and employees subject to the provisions of this chapter; the manner of completing appointments and promotions; rejection of eligible candidates; competitive examinations; creation of eligible lists, with successful candidates ranked according to their ratings in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations, and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment. If a rule is made concerning sick leave for illness in the immediate family of an employee, the term "immediate family" shall be limited to the spouse, minor children, or parent where the parent has no other person to provide the necessary nursing care, living in the household of the employee;
- (3) To appoint temporary and permanent examiners, including a chief examiner, clerks, stenographers, and such other employees and officers as are necessary to carry out the provisions of this chapter; these employees and officers shall be chosen in accordance with and shall be subject to, the provisions of this chapter;
- (4) To keep in the office of the department of civil service an official roster of the state civil service showing the employment history of each and every person who has been appointed to, employed, promoted, reduced, or reinstated in any position in the service; which roster shall show, in connection with each name, the date of appointment, employment, promotion, reduction, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, sick or annual leaves, and separations from the service; and the director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with the roster;
- (5) To prepare, in accordance with the provisions of this chapter and the rules adopted hereunder, examinations, eligible lists, and ratings of candidates for appointment;
- (6) To make certifications for appointment within the classified service, in accordance with the provisions of this chapter;
- (7) To make investigations concerning all matters touching the enforcement

and effect of the provisions of this chapter and the rules and regulations prescribed hereunder;

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

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

[1939 c 441 s 5; 1955 c 774 s 1; 1955 c 847 s 4; 1957 c 870 s 1] (254-53)

**43.051 AGE FOR RETIREMENT.** Subdivision 1. Notwithstanding the provisions of Minnesota Statutes, Sections 197.45, 197.46, 197.47, 43.30, or any other law to the contrary, an officer or employee of the state of Minnesota in the classified service of the state civil service must retire from his employment by the state upon reaching the age of 70.

Subd. 2.- Notwithstanding any provision to the contrary; a physician in the classified or unclassified state service may upon reaching the age of 70 years continue to be employed in the department of public welfare or one of its institutions subject to annual certification by the commissioner upon the recommendation of the medical policy directional committee on mental health.

[1967 c 193 s 6; 1967 c 741 s 27]

**43.06 BOARD; DUTIES, POWERS.** It shall be the duty of the civil service board and it shall have power:

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

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

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

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

(5) To make a biennial report to the governor, on or before October 1 in each even-numbered year, for the two preceding fiscal years;

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

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

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

(9) Upon the recommendation of the director that suitable persons are unavailable to fill vacancies in a class, grade, or group of positions and an eligible list therefor cannot be established, the board may authorize the director to extend provisional appointments made pursuant to Minnesota Statutes, Section 43.20, clause (1), in such class, grade, or group of positions until eligible lists can be established therefor but in no event shall any provisional appointee fill any vacancy for more than one year.

(10) The board shall submit each rule and regulation promulgated under Laws 1955, Chapter 774, for the consideration of the session of the legislature next convening following the adoption of the rule or regulation. If any rule or regulation is disapproved by the legislature, it is no longer in force and effect.

[1939 c 441 s 6; 1951 c 685 s 1; 1955 c 774 s 7; 1955 c 847 s 5] (254-54)

**43.07 TESTIMONIAL POWERS.** Subdivision 1. **Subpoenas, issuance.** The civil service board, or the director of the civil service when authorized by a majority vote of the board, may issue subpoenas to compel the attendance, at such place as may be designated in this state, of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this chapter; or may take

depositions of witnesses in the manner provided by sections 597.01 to 597.18 and 600.09. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board and the director. The board, or any member thereof, or the director when authorized by the board, may administer oaths and take testimony. The board or the director may examine such public records as they require in relation to any matter which they have authority to investigate. All officers and other persons shall attend and testify when required to do so by the board, or by the director when authorized by the board.

**Subd. 2. Refusal to testify, contempt of court.** In case of the refusal by any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county, on application of any one of the members of the board, or of the director when authorized by the board, may issue an order requiring the person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

**Subd. 3. Witness fees and mileage.** Each person not in the classified or unclassified services who appears before the board or the director by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Witnesses subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of these witnesses was relevant and material to the matter investigated.

**Subd. 4. Rules of evidence not technical.** The board and the director, in conducting hearings and investigations in accordance with the provisions of this chapter, shall not be bound by the technical rules of evidence.

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

**43.08 SALARIES.** The salaries of the members of the staff of the state department of civil service shall be fixed in accordance with the salary schedules established as authorized by this chapter.

[1939 c. 441 s. 8; 1955 c. 383 s. 1] (254-56)

**43.09 UNCLASSIFIED SERVICE, CLASSIFIED SERVICE.** Subdivision 1. **Divisions.** The civil service of the state of Minnesota is hereby divided into the unclassified and the classified services.

**Subd. 2. Unclassified service.** The unclassified service comprises positions held by state officers or employees who are:

- (1) Chosen by election or appointed to fill an elective office;
- (2) Heads of department required by law to be appointed by the governor or other elective officers, except the railroad and warehouse commissions, and the executive or administrative heads of departments, divisions and institutions specifically established by law, except that with respect to state institutions, the provisions of section 246.02 are hereby continued in effect; provided, this clause shall not apply to heads of divisions now existing in the department of labor and industry, nor to the director of the division of vocational rehabilitation in the department of education;
- (3) Except as herein otherwise enlarged, one private secretary to each of the elective officers of this state, and in addition thereto, one deputy, clerk, or employee to the secretary of state, state auditor, and state treasurer;
- (4) All deputy registrars of motor vehicles and seasonal help employed by the registrar and his deputies to assist in the issuance of motor vehicle licenses;
- (5) One executive secretary and other confidential employees in the office of the governor, and one confidential employee for the governor in the office of the adjutant general;
- (6) Officers and employees of the senate and house of representatives of the legislature;
- (7) Teachers, research assistants, student employees on less than half-time pay basis or eligible under terms of the federal economic opportunity act work study program, presidents, deans, and administrative officers in the state colleges; but this clause shall not be construed to include the custodial, clerical, or maintenance employees, or any administrative officers, or clerical workers performing duties in connection with the business administration of these institutions;
- (8) Officers and enlisted men in the national guard and the naval militia and all personnel employed by the adjutant general and assigned to any armory;

(9) Election officers;

(10) Persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(11) Persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination, or installation;

(12) Deputy attorneys general, assistant attorneys general, legal assistants, examiners, three confidential employees, and special counsel to state departments appointed by the attorney general or employed with his authorization;

(13) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

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

(15) State highway patrolmen; provided, that with respect to the method of selection and appointment only, they shall be selected and appointed in accordance with the state civil service law as applicable to the classified service, but in all other respects the provisions of the state civil service law shall not apply to them;

(16) The deputy commissioner of agriculture;

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

(18) Seasonal help employed by the department of taxation.

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

**Subd. 4. Classified service.** The classified service shall include the labor service and consist of all positions now existing or hereafter created and not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examination which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, reduced, or discharged as an officer, clerk, employee, or laborer in the classified service in any manner or by any means other than those prescribed in this chapter and the rules adopted in accordance therewith.

**Subd. 5. Employees may be appointed from registers of eligibles.** Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt

from the provisions of this chapter because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate registers of eligibles maintained by the department of civil service.

Subd. 6. **Act not applicable to regents of University of Minnesota.** The state civil service act shall not be deemed to have been heretofore or hereafter applied to the Regents of the University of Minnesota, nor to persons, institutions, or employees under their control.

Subd. 7. **Civil service laborers.** Employees in the labor service who have been employed for a total of 30 months within three years immediately preceding the date of the enactment hereof, shall receive the same tenure rights given by this chapter to other classified employees of the state not in the labor service.

Employees in the labor service who shall be employed for a total of 30 months within any 36 month period beginning on the date of enactment hereof or thereafter, shall receive the same tenure rights given by this chapter to other classified employees of the state not in the labor service.

Employees in the labor service entitled to tenure rights under this subdivision shall be known as civil service laborers.

[1939 c 441 s 9; 1941 c 533 s 1; 1943 c 543 s 1; 1943 c 605 s 1; 1945 c 586; 1947 c 482 s 1; 1953 c 408 s 1; 1955 c 774 s 2; 1961 c 113 s 1; 1961 c 351 s 1, 2; 1961 c 560 s 4; 1963 c 436 s 1; 1965 c 491 s 1; 1965 c 800 s 1; Ex1967 c 1 s 6] (254-57)

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

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

If the aforementioned incumbents are found by this qualifying examination to have the sufficient ability and capacity as will enable them to perform the duties of the position for which they were examined in a reasonably efficient manner, they shall be given a civil service status subject to the provisions of section 43.21. If any of the aforementioned incumbents who are required by this chapter to take a qualifying examination shall fail to pass the same, they shall be removed from their positions at the expiration of three months following receipt of notice of failure to pass the examination. All persons who shall wilfully fail or refuse to take the examina-

tion when offered, without reasonable excuse, shall be removed from their positions immediately.

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

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

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

**Subd. 5. Seniority rights.** In the event of necessary reductions in employment in any class or position, employees who have not acquired a permanent classified civil service status shall be laid off in accordance with their seniority within the department where they are employed.

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

**Subd. 7.** [Repealed, 1957 c 141 s 1]

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

**43.11** [Repealed, 1951 c 371 s 1]

**43.111 POLICY.** It is the public policy of the state of Minnesota that an efficient and well trained work force be maintained to carry out the work ordained by the legislature. It is further directed that modern methods of selection, training and salary administration be established and maintained. The standards of selection shall be of such a nature as to provide the proper level of preparation and experience. Recognizing the cost of excessive employee turnover, it is directed that priority be given to the maintenance of a steady work force. To this end, training, by way of in-service programs and stipend allowances shall be encouraged. It is also established as the policy of the state of Minnesota that employees be paid on the same level as their counterparts in other private and public employment. Continuing analysis of pay rates and supplementary pay practices shall be carried on, as well as analyses of jobs to determine comparability of job content.

[1967 c 193 s 1]

**43.12 DIRECTOR TO CLASSIFY EMPLOYEES.** Subdivision 1. **Classification; duties of commissioner.** The director of the state civil service shall, as soon as practicable, and after consultation with appointing authorities and principal supervisory officials, classify all offices, employments, and positions in the classified service according to the duties and responsibilities of each position in accordance with the appropriate line of promotion. This duty to classify shall extend to all offices, employments, and positions held by persons who may become members of the classified service under this chapter, as provided by section 43.10, as well as to those offices, employments, and positions held by other persons. Titles shall be established for each class of employment for use in examining and certifying names of persons for appointment under this chapter, and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up, minimum qualifications required for satisfactory performance of the duties of each grade and class formulated; and, so far as practicable, the lines of promotion from grade to grade or class to class shall be indicated. The titles in this classification, as defined by the specifications of duties and qualifications, shall be used for (1) original appointments; (2) promotions; (3) pay-rolls; and (4) all other records affecting the status of personnel. The classifications, when approved by the civil service board after public hearing, shall take effect immediately, be sent to the commis-



sioner, and used by him in the preparation of the next following and subsequent state budgets. The director of the civil service may make changes in the classification when he deems it necessary for the efficiency of the service; and these changes, when approved by the civil service board after public hearing, shall take effect immediately, be sent to the commissioner of administration, and used by him in the preparation of the next following and subsequent state budgets.

Subd. 2. **Salary ranges.** (1) The following schedule of rates is established as the basic rates of pay for all employees in the state classified service except as provided in clauses (2) and (3).

Range	1	2	3	4	5	6	7	8	9	10
1a	260	270	281	292	304	316	329	342	356	370
2a	281	292	304	316	329	342	356	370	385	400
3a	304	316	329	342	356	370	385	400	416	433
4a	329	342	356	370	385	400	416	433	450	468
5a	356	370	385	400	416	433	450	468	487	506
6a	400	416	433	450	468	487	506	526	547	569
7a	450	468	487	506	526	547	569	592	616	641
8a	506	526	547	569	592	616	641	667	694	722
9a	569	592	616	641	667	694	722	751	781	812
10a	641	667	694	722	751	781	812	844	878	913
11a	722	751	781	812	844	878	913	950	988	1028
12a	812	844	878	913	950	988	1028	1069	1112	1156
13a	950	988	1028	1069	1112	1156	1202	1250	1300	1352
14a	1112	1156	1202	1250	1300	1352	1406	1462	1520	1581
15a	1300	1352	1406	1462	1520	1581	1644	1710	1778	1849

In assigning classes of work to this schedule the board shall give consideration to the reduction of supervisory levels and separate classifications.

(2) The following schedule of rates is established as the basic rates for state employees in the classified service employed in skilled, semi-skilled, unskilled, maintenance classes and those classes of work for which a shorter pay range is recognized as determined by the board. In assigning classes of work to this schedule the board shall give consideration to the most commonly paid rate for each class of work. Supplementary pay practices shall be evaluated and costs considered in comparing the rates to be assigned in this schedule to those rates established in public and private employment. The board is authorized to establish a percentage differential based upon full annual employment and tenure where such advantages are not common in employment outside of the state service.

Range	1	2	3	4
1b	260	281	304	329
2b	270	292	316	342
3b	281	304	329	356
4b	304	329	356	385
5b	329	356	385	416
6b	370	400	433	468
7b	400	433	468	506
8b	433	468	506	547
9b	487	526	569	616
10b	526	569	616	667
11b	569	616	667	722
12b	616	667	722	781
13b	694	751	812	878

(3) Overtime worked shall be compensated for either by cash payment or compensatory time off as provided for in overtime schedules approved under the provisions of the civil service rules.

(4) None of the provisions of sections 43.12, subdivision 2, to 43.122, shall apply to employees in the classified service under the state civil service act who are paid on a fee basis, or to such employees who are department heads.

(5) For the purposes of this subdivision, as applied to an employee the words "his former salary" means his adjusted salary within the range of salaries theretofore established for the class of his position; and the words "his new range" mean the salary range established by this subdivision by which the class of his position shall be paid. "Minimum" and "maximum," used alone, mean respectively, the minimum and maximum salary rates of a range.

(6) Whenever a class is reassigned to a higher salary range as provided in

# MINNESOTA STATUTES 1967

483

## CIVIL SERVICE, STATE EMPLOYEES 43.12

section 43.121, subdivision 2, the salaries of state employees in the classified service shall be adjusted as follows:

(a) An employee whose class is reassigned to a salary range in subdivision 2, clause (1), shall receive an adjusted salary bearing the same relation to the minimum of his new range as his former salary bore to the minimum of his former range. In the event that this adjustment results in an amount less than eight percent of his former salary as defined in clause (5), his former salary shall be increased by eight percent and if such adjusted salary exceeds the new maximum, a rate above the maximum for his assigned range shall be authorized until his salary is within his new range. No additional increases in salary shall be authorized until his salary is again within his new range. The provisions in the two preceding sentences shall apply only at the time of adjustment on July 1, 1967.

(b) An employee whose class is reassigned to a salary range in subdivision 2, clause (2), shall receive an adjusted salary determined in the following manner. An employee whose former salary was at the minimum or step 2 of the former range shall be adjusted to the minimum of the new range. An employee whose former salary was at step 3 or step 4 of the former range shall be adjusted to step 2 of the new range. An employee whose former salary was at step 5 or 6 in the former range shall be adjusted to step 3 of the new range. An employee whose former salary was at the first or second longevity step shall be adjusted to step 4 of the new range. Where an adjustment as prescribed above results in an increase of less than eight percent, the salary shall be adjusted to the next higher step in the new range. If this rate exceeds the maximum for the range such payment shall be authorized until his salary is within the new range. The provisions in the two preceding sentences shall apply only at the time of adjustment on July 1, 1967.

(c) Former salary for the purpose of adjustments specified in clause (6) (a) and (b) is defined as an employee's salary on July 1, 1966, or for those employees who have received a merit increase subsequent to the above date and prior to the passage of this act, the July 1, 1966 salary augmented by a four percent, or one step, merit increase, or that salary attained in instances where the civil service director has approved an in-range hiring level, as implemented by the appointing authority, and adjustments were authorized to equate the salary of employees in the same class to the new hiring rate. For an employee appointed in the classified service subsequent to June 30, 1966, former salary is defined as the minimum rate for his class, or the approved in-range hiring rate if one exists. Former salary, for an employee promoted subsequent to June 30, 1966, is his salary on the effective date of promotion provided that such salary does not exceed his salary prior to promotion by more than four percent except to equate it with an approved in-range hiring rate or the minimum for the higher class. No salary adjustment provided for herein shall result in a reduction from the employee's salary on the effective date of Laws 1967, Chapter 193.

**Subd. 3. Allocations.** (1) The director shall allocate each position in the classified civil service to one of the classes within the classification plan, subject to review of the board if an application is made in writing to the board upon one of the grounds set forth in clause (7) by the appointing authority immediately affected at any time within 30 days following notice to him of that allocation, or within 30 days from the date of notice of the final action of the director in case of an application for reconsideration, as hereinafter provided for, and thereafter all salary rates, schedules, or compensation policies shall apply uniformly to all positions within each class, in accordance with rules and regulations established by the board, except those positions for which special provision is made in clause (6) below.

classification plan is established, the appointing authority shall notify the director, who shall allocate that new position to its appropriate class, subject to the same right of review by the board as heretofore provided in this clause.

(2) After the director makes an allocation under clause (1), he shall notify the appointing authority affected, in writing, of that allocation. The allocation shall become immediately effective, but the appointing authority may within ten days file with the director an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which that appointing authority may desire considered by him. The director shall act upon that application within ten days after receiving it, and notify the appointing authority of his final action. In case of the filing of such application for reconsideration, the time for

asking a review by the board shall commence to run from the date of notice to the appointing authority of the director's final action.

(3) Whenever, because of changes in the organizational structure of an agency, in the duties of a position, or for some other reason, a position appears to be improperly allocated, the director shall, upon his own initiative, or upon the written request of a permanent employee or an appointing authority, investigate the duties of the affected position. Following that investigation he may reallocate it to an appropriate class. If the director makes a reallocation or denies an application for reallocation, under this clause, he shall notify the appointing authority and the employee affected of his action. A permanent employee or appointing authority affected by any such action shall have the same right to make an application for reconsideration as is granted an appointing authority in the case of an original allocation by clause (2), and the procedure set out in clause (2) shall apply to such application. Except as provided in clause (6) below, any reallocation granted by the director shall become effective upon the expiration of the time fixed for making an application for reconsideration, if none is made, or if one is made, at the date of notice by the director of his final action. A permanent employee or appointing authority shall have the same right of review by the board of a reallocation which changes the class of a position as is granted an appointing authority in the case of an original allocation. Application for such a review must be made within 30 days from the date of notice by the director of his original action, or, if a reconsideration has been asked, within 30 days from the date of the director's final action upon that application.

(4) In case of any allocation under clause (1), or any reallocation under clause (3), no examination of witnesses nor any trial or hearing shall be required, but the director may act upon such matters as are submitted to him in writing by the employee whose position will be affected by a reallocation or by the appointing authority who will be affected by an allocation or a reallocation, and reports and records of investigators of the department, and may take official notice of the records of the department and of allocations of other comparable positions. The matters of which he takes official notice shall be set out by him in a memorandum to be filed with his order or report of investigation and made a part of his record. In all cases of applications for reallocation, the burden of proof shall be upon the person requesting the reallocation.

(5) Except as provided in clause (6) below, the incumbent of a position which has been reallocated shall continue in the position only if he is eligible for and actually is appointed to the position of the new class in accordance with the rules of the board governing promotion, transfer, and demotion. In any case in which the incumbent is ineligible to continue in the position and he is not transferred, promoted or demoted, the layoff provisions of this chapter and the rules of the board shall apply. Personnel changes required by the reallocation of positions shall be completed within a period of 60 days following the date of reallocation notice to an appointing authority. Any employee with permanent or probationary status whose position is reallocated shall be considered eligible to compete in any promotional examination held to fill the reallocated position, as provided in the rules of the board.

(6) When a position is reallocated by the director to a class in a lower salary range, the director and the Commissioner of Administration may give consideration to the employee's long or outstanding service, exceptional or technical qualifications, age, or health. When, as a result of such consideration, the director and the commissioner determine that the best interests of the state will be served by such action, the position shall be reallocated but the employee shall continue at the same rate of pay. Thereafter, as long as he remains in the same position, such employee shall not be eligible to receive any salary increases except those economic adjustment increases provided for in section 43.123, subdivision 4, until such time as his salary once again may be within the range of the class to which his position has been reallocated.

(7) A review by the board as provided for in this subdivision may be had when the employee or appointing authority affected files an application for review in writing on the ground:

- (a) That the action of the director was not in accordance with the civil service act;
- (b) That the action of the director was unwarranted by the evidence before

him, or was procured by fraud, coercion or other improper conduct of any party in interest.

The board after receiving any application for review shall order the director to submit to it the record upon which he acted and thereafter, upon that record, may sustain, reverse or modify the action of the director or, in its discretion, may order that further evidence be taken by him to be submitted to the board and considered by it upon its review.

[1939 c 441 s 12; 1943 c 639 s 1; 1945 c 598 s 2; 1947 c 604 s 2; 1947 c 606 s 1; 1949 c 646 s 2; 1951 c 161 s 1; 1955 c 659 s 1; 1957 c 716 s 1; 1957 c 877 s 1; 1963 c 754 s 1; 1967 c 193 s 2] (254-60)

**43.121 SALARY RANGE ASSIGNMENT.** Subdivision 1. The director shall, as soon as practicable after the final enactment of Laws 1955, Chapter 659, assign each class of employment in the classified service, established pursuant to Minnesota Statutes, Section 43.12, Subdivision 1, to one of the salary ranges established by section 43.12, subdivision 2. These assignments shall be referred to the board for its consideration, after public hearing, as provided in section 43.12, subdivision 1. The salary of any employee which is in excess of the maximum of the range to which his class is assigned shall not be changed by reason of this schedule, but such employee shall not be eligible for any salary increases until his salary is within his new range. After the board has acted upon the assignments, the director shall submit them to the commissioner of administration, who shall determine whether sufficient funds are available. The commissioner of administration may approve or reject such assignments.

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

Subd. 3. Notwithstanding the provisions of this section, the director may assign the classes of employment which require teaching in an established school program in the department of education and institutions of the state under the jurisdiction of the department of public welfare and the department of corrections to salary ranges, which he is hereby authorized to establish. Whenever the director assigns classes of employment which require teaching in an established school program to any salary range which he is authorized to establish by this subdivision, he shall prepare schedules showing the salary ranges for each class, grade, or group of positions in the class of positions assigned by him and he shall also prepare schedules showing entrance salaries and step increases based upon educational attainments and length of satisfactory service. All these schedules shall be subject to approval by the board. The salary ranges shall include a minimum rate and not more than nine additional step increases. In assigning ranges of salaries for positions in this category the board shall give consideration to the salary schedules for teachers which are in effect in other units of government of the state.

[1945 c 598 s 3; 1947 c 606 s 2; 1951 c 715 s 1; 1953 c 717 s 1; 1955 c 659 s 2; 1959 c 475 s 1; 1963 c 754 s 2; 1967 c 193 s 3, 4]

**43.122 ANNUAL REVIEW.**

Subdivision 1. M.S. 1953 [Repealed, 1955 c 659 s 9]

Subdivision 1. Each employee in the state classified service within the scope of the compensation schedules established under Minnesota Statutes, Section 43.12, who has not attained the fifth rate of compensation for the range to which his class is assigned shall be advanced in compensation successively to the next higher rate within the range at the beginning of the next pay period following completion of his first 26 calendar weeks of service and thereafter at the beginning of the next pay period following completion of each 52 calendar weeks of

service provided that his work is of an acceptable level of competence as determined by his appointing authority. Increases for an employee being paid at or above the fifth rate of compensation for the range to which his class is assigned must be proposed and justified on an individual basis with specific incidents demonstrating outstanding abilities.

Subd. 2. Acceptable level of competence is that standard of work performance established by the appointing authority which can reasonably be expected.

Subd. 3. Within the limits of available appropriations an appointing authority may propose salary increases of more than one step or more frequently than provided in this section upon detailed written statements to the director specifying the employee's exceptional high quality performance above that ordinarily found in the type of position concerned or the unusual employment conditions that make such action necessary. The director shall review each such proposal giving due consideration to the salary rates paid other employees in the same class and agency and may deny any request which in his judgment is contrary to the best interest of the service.

[1945 c 598 s 4; 1967 c 193 s 5]

**43.123** Subdivision 1. [Repealed, 1967 c 193 s 7]

Subd. 2. [Repealed, 1967 c 193 s 7]

Subd. 3. [Repealed, 1967 c 193 s 7]

Subd. 4. [Repealed, 1967 c 193 s 7]

Subd. 5. [Repealed, 1955 c 659 s 9]

Subd. 6. [Repealed, 1955 c 659 s 9]

Subd. 7. [Repealed, 1967 c 193 s 7]

**43.124** [Repealed, 1955 c 659 s 9]

**43.125** [Repealed, 1967 c 193 s 7]

**43.126 SPECIAL RATES OF PAY.** Subdivision 1. Notwithstanding the provisions of Minnesota Statutes, Sections 43.12 and 43.121 to 43.123 and 43.125, the following salary ranges are established with annual salaries as shown:

Range A \$16,000 to \$23,000

Range B \$19,000 to \$26,000

Range C \$23,000 to \$28,500

Subd. 2. When it becomes apparent that the performance of certain functions of the state government is of such public concern as to demand employment of exceptionally qualified doctors of medicine and where it can be clearly demonstrated that such employees cannot be employed at the rate provided for in Minnesota Statutes, Section 43.12 and Sections 43.121 to 43.123, an appointing authority may propose that positions in the classified service be assigned to one of the ranges listed in subdivision 1. Such proposals shall be made to a committee composed of the governor, the commissioner of administration and the director of civil service. They shall take into consideration the standards of eligibility established by the appropriate national medical specialty board. The committee shall instruct the director of civil service to conduct local and nationwide surveys of compensation paid for like positions. The committee shall give consideration to this data, and may assign to one of the ranges listed in subdivision 1, on an individual basis, such positions as they determine to come under the provisions of this subdivision. Such assignments shall be filed with the director of civil service, and shall become effective as soon as practicable, but no later than one month after such filing. All such assignments and future reassignments made under the provisions of this section shall be reported to each branch of the legislature if it is in session, or if it is not in session, at the opening of the next legislative session. Positions so assigned, and positions and employees in such classes shall be subject to the provisions of all applicable sections of Minnesota Statutes, Chapter 43, except section 43.12, subdivision 2, sections 43.121 to 43.123 and section 43.125, or acts amendatory thereof. Employees in such classes shall not be eligible for economic adjustment increases nor for increases above the maximum of their ranges as established by subdivision 1. The procedures outlined in this section concerning the assignment of positions into the ranges provided for in subdivision 1 shall in no way supersede, amend or stand in place of the provisions of Minnesota Statutes, Section 43.13.

Subd. 3. The committee may subsequently reassign a position to a different range listed in subdivision 1, if in its judgment such reassignment is in the public interest. Assignments or reassignments to ranges listed in subdivision 1 shall continue until such time as the committee determines that the reasons for such spe-

cial assignments no longer exist, at which time the committee shall remove such positions from such assignment. Subsequent to such action they shall instruct the director of civil service to assign such positions to one of the ranges listed in Minnesota Statutes, Section 43.12, Subdivision 2, as provided in Minnesota Statutes, Section 43.121, Subdivision 2.

Subd. 4. The salary rate to be paid to an employee, within the range assigned by the committee, shall be determined by the appointing authority. The beginning salary rate and any subsequent changes shall be reported to the committee by the appointing authority.

[*Ex*1961 c 37 s 1-4; 1967 c 667 s 1]

**43.13 EXAMINATIONS.** Subdivision 1. **Fair tests; records.** All competitive examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to efficiently discharge the duties of the office or employment sought by them. The director shall keep and maintain accurate and complete minutes or a recording of each oral examination so as to show the questions asked each applicant and applicant's answers thereto. Each applicant in an oral examination shall be rated individually by each examiner who shall sign his rating of the applicant. The average of the examiners, separate ratings, if more than one examiner conducts the oral examinations, is the applicant's oral examination rating. The records of oral examinations are public records but need only be preserved for one year from the date that an applicant's name is placed on an eligible register resulting from the examination of which the oral examination is a part.

Subd. 2. **Eligibility; time; place.** The competitive examinations shall, after published notice, be open to all applicants who are citizens of the United States, who have been residents of this state for two years immediately preceding the date of examination, and who meet with reasonable standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other factors as may be held to relate to the ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education or physical condition except such as relate directly to the duties of the office or employment to be filled. Persons under such physical disability as not to make them ineligible by reason thereof, shall be examined in such manner as will fairly test their ability to perform the duties of the position, notwithstanding such physical disability. The director may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require. Examinations shall be held at such times and places as in the judgment of the director most nearly meet the convenience of applicants, practicability of administration and the needs of the service.

Subd. 2a. **Residents of other states and noncitizens.** For positions requiring professional, technical, or unusual qualifications, the director, subject to approval of the board, may open competitive examinations to residents of other states who are citizens of the United States or to noncitizens who have filed with proper authorities, a declaration of intent to become citizens of the United States when such action is permitted by federal law and who are otherwise qualified. Noncitizens appointed as a result of competitive examinations permitted under this section shall not acquire permanent civil service status until they present proof of United States citizenship. The period of employment of any noncitizen so appointed who shall not furnish proof of citizenship within the applicable minimum period prescribed by federal law, shall be automatically terminated on that date, unless extended by the director because of circumstances beyond the control of the employee. For positions as provided in this subdivision, the appointing authority may pay one-half of first class rail fare or its equivalent to out-of-state applicants invited to Minnesota for oral examinations, for those positions where unusual difficulty in recruiting qualified applicants is being encountered, and as recommended by the director.

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

[1939 c 441 s 13; 1953 c 516 s 1; 1955 c 774 s 3; 1965 c 299 s 1, 2] (254-61)

**43.14 EXAMINATION REFUSED; APPEAL; BOND.** Subdivision 1. **Reasons**

**for refusal.** The director may refuse to examine an applicant, or after examination may refuse to certify an eligible, who is found to lack any of the preliminary requirements established for the examination for the position or employment for which he applies; or who is physically so disabled as to be rendered unfit for the proper performance of the duties of the position to which he seeks appointment; or who is addicted to habit-forming drugs or is an habitual user of intoxicating liquors to excess; or who has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact; or who, directly or indirectly, shall give, render or pay, or promise to give, render or pay, any money, service, or other valuable thing to any person for, or on account of, or in connection with, his test, appointment, or proposed appointment; or who practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment; or who refuses to furnish testimony as required in section 43.07.

**Subd. 2. Appeal from refusal.** When the director refuses to examine an applicant, or after an examination refuses to certify an eligible, as provided in this section, then the director, upon request of the person so rejected, shall furnish to him a statement of the reasons for such refusal to examine or refusal to certify, as the case may be. In the case of any such refusal, an appeal may be taken to the board in accordance with the rules to be adopted in the manner hereinbefore provided.

**Subd. 3. Requirement for bond included in notice of examination.** When any position requires the appointee to furnish a bond, such requirements shall be included in the announcement of the examination for the position.

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

**43.15 POLITICAL OR RELIGIOUS DISCRIMINATION FORBIDDEN.** No discrimination shall be exercised, threatened, or promised by any person in the civil service against, or in favor of, any applicant, eligible, or employee in the civil service because of his political or religious opinions or affiliations.

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

**43.16 OATH.** Every officer or employee of the state, and every person making application for examination under this chapter shall take and subscribe an oath or affirmation, under the penalty of perjury and without the necessity of a notary acknowledgment or seal, in writing, to the effect that such person will honestly and faithfully protect and preserve the property and money of the state and will abide by, uphold, and defend the Constitution of the United States of America and the Constitution of the State of Minnesota and, except as provided in these constitutions, he will not take part in any movement to alter or change our form of government.

Every person making application for examination under this chapter shall execute an application form in which he shall declare that the statements therein are true and complete, with the same force and effect as though given under oath.

[1939 c 441 s 16; 1957 c 445 s 1] (254-64)

**43.17 APPOINTMENTS.** Subdivision 1. **Appointments; promotions; reinstatements.** Appointments, promotions, and reinstatements to all positions in the classified service under the provisions of this chapter, and the rules made in pursuance thereof, shall be made from among those certified to the appointing officer.

**Subd. 2. Term of eligibility.** The term of eligibility of applicants on original entrance and reinstatement lists and on promotion lists shall be one year, but the term of any list may be extended by the director. In no case may eligibility be extended for a period of more than three years.

**Subd. 3. Certified lists; appointments made from.** Appointments shall be made from the appropriate eligible list, but if no such list exists, then the director may certify from such other list as he deems the next most nearly appropriate. A new and separate list shall be created for a stated position only when there is no satisfactory list. The director shall have authority to establish separate eligible lists applicable to various localities. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, nor assigned to perform the duties of, any position in the classified service, unless he has previously qualified therefor under the provisions of this chapter.

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

43.171 [Repealed, 1957 c 141 s 1]

**43.18 VACANCIES.** Subdivision 1. **Notice.** Appointing officers shall give written notice to the civil service director of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service, and, within a reasonable time after the receipt of this notice, the director shall certify, from the list of eligibles, appropriate for the grade and class in which the position is classified, the first three names on such list together with any additional names of persons having an examination rating within three points of the person on the list with the highest examination rating, except as provided in section 43.23.

Subd. 2. **Appointment; probation.** The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates, whose name is certified in the manner above set forth, to fill such vacancy, except as provided in section 43.23. The provisions of this section shall not apply when the office or employment is among those listed in section 43.20, for which competitive examinations are not required.

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

[1939 c 441 s 18; 1955 c 774 s 4] (254-66)

**43.19 VACANCIES; PROMOTIONS; DISMISSALS.** Subdivision 1. **Vacancies filled by promotion.** (1) Vacancies in positions shall be filled, so far as practicable, by promotion from among persons holding positions in the classified service, and, subject to such exceptions as the board may provide, from the lower class or group within the particular classification, and in accordance with section 43.18 and the rules of the board. Except as provided in clause 2, promotions shall be based upon merit and fitness, to be ascertained by competitive examinations in which the employee's efficiency, character, conduct, and seniority shall all constitute a factor.

(2) The director, with the approval of the board, may authorize the appointing authority of any state office or department to promote any employee in that office or department to a position of a higher grade or class requiring peculiar and exceptional qualifications of an administrative, scientific, professional, or expert character, following a non-competitive examination, which shall be practical and shall involve only the duties of the position.

(3) The director shall give the non-competitive examinations provided for in clause 2 upon request of any appointing authority, in accordance with rules and regulations to be prescribed by the board.

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

Subd. 3. **Restoration to position after dismissal.** Any promotional appointee who is dismissed for cause other than misconduct or delinquency on his part from the position to which he has been promoted either during the probationary period, or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon registers of persons eligible for original appointments.

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

**43.20 NON-COMPETITIVE POSITIONS.** Subdivision 1. Positions in the classified service may be filled without competition only as provided in this section.



Subd. 2. When there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify from any appropriate eligible list for the vacancy, the director may issue a provisional permit or certify a suitable person to fill such vacancy provisionally only until a selection and appointment can be made after competitive examination; but no person shall receive more than one provisional appointment nor serve more than six months in any 12-month period as a provisional appointee, except, where in individual cases reviewed by the civil service board, that board grants an exception for the good of the service.

Subd. 3. In case of an emergency, an appointment may be made without regard to the provisions of this chapter, but in no case shall it continue longer than ten days, and in no case shall successive emergency appointments be made; this provision shall apply to both persons and positions; and no person shall receive more than three emergency appointments in any one or different positions within one year.

Subd. 4. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional, or expert character are required, and upon satisfactory evidence that for specified reasons competition in this special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in these qualities, the board, upon recommendation of the director, may suspend the requirements of competition in this case, but no suspension shall be general in its application to the position, and all the cases of suspension shall be reported in the annual report of the department, with the reasons for the same.

Subd. 5. Where the services to be rendered by an appointee are for a temporary period not to exceed six months, the director shall certify from an eligible list for the temporary service any person he deems qualified; the acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary period in case of subsequent appointment to a permanent position. No person shall receive more than one temporary appointment within one year. No temporary appointment shall exceed six months except to fill a vacancy created by an approved leave of absence not to exceed one year or where the civil service board grants an extension of temporary appointment to the maximum of one year in the best interests of the state.

[1939 c 441 s 20; 1951 c 685 s 2; 1955 c 654 s 1; 1957 c 447 s 1; 1959 c 5 s 1] (254-68)

**43.21 PROBATIONARY PERIOD.** Except as in this chapter otherwise provided, all original appointments to and promotions within the classified service, and offices or employments within the classified service held by persons who become members of the classified service without examination pursuant to section 43.10, or by qualifying examination pursuant to section 43.10, shall be for a probationary period of six months, except special teachers employed under the classified service whose probationary period shall be one year, but dismissals or demotions may be made at any time during such period, subject to the provisions of section 43.19, subdivision 3. Provided, that no employee transferred or promoted from one position in the classified service to another position in the classified service shall be dismissed, except for just cause, demoted or transferred without his consent until he shall have served a trial period of at least 30 days in his new position. At the end of the probationary period the appointing officer shall notify the director, in writing, whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice, the employee, if his service during the probationary period did not fall below such minimum standards as have been prescribed by the director of the civil service, shall be deemed to have a permanent classified civil service status; otherwise the employee is automatically separated from the service, except as provided in section 43.19, subdivision 3. Provided, any employee holding office on January 1, 1949, who was provisionally appointed prior to August 2, 1941, and who passed an open competitive examination given November 18, 1944, and who was certified for appointment from an eligible list on April 16, 1945, or May 9, 1945, and who was appointed provisionally on May 1, 1945, May 8, 1945, or May 10, 1945 shall be given full civil service status from the date of his probationary appointment.

[1939 c 441 s 21; 1947 c 489 s 1; 1949 c 490 s 1; 1965 c 298 s 1] (254-69)

**43.22 TRANSFERS: LEAVES OF ABSENCE; REINSTATEMENT.** Subdi-

# MINNESOTA STATUTES 1967

491

CIVIL SERVICE, STATE EMPLOYEES 43.221

vision 1. **Transfers.** Transfers in the classified service may be made from a position in one grade and class to a position in another grade and class when the duties and compensation are similar and when such action is specifically approved by the director of the civil service.

Subd. 2. **Leaves of absence.** Any person holding a permanent position in the classified service of this state may be granted a leave of absence on the grounds of sickness, disability, or other good and sufficient reason; provided, that no leave, except military leave, sick or disability leave, leave to accept an appointive position in the state unclassified service, and leave to accept employment with a civil defense survival plan project to which the state is a party, shall exceed one year, except as provided in subdivision 4.

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

When a person's appointment to a position in the unclassified service is terminated and he is restored, as provided by this subdivision, to the status and position in the classified service which he last held just prior to accepting the appointment in the unclassified service and the position to which he is being restored is occupied by another person who has been given a permanent appointment to such position, the latter person shall be restored to the status and position last previously held by him in the classified service upon application therefor to the director of civil service.

Within ten days after the director receives the application of the person in the unclassified service to be restored to his former position in the classified service, the director shall notify the person occupying the position of such application. The person occupying the position shall have ten days from the date he receives the director's notification to make application to the director to be restored to his former position in the classified service. The person occupying the position to which the person in the unclassified service is returning shall be restored to the position last previously held by him in the classified service effective the same day the person returning from the unclassified service resumes his former position.

Subd. 4. **Reinstatement, when.** Any person who has held a position by permanent appointment in the classified service under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part or who has been granted a leave of absence under subdivision 2, may be reinstated within one year from the date of the separation or within one year from the expiration of an approved leave of absence, to a position in the same or similar grade or class in the classified service, but such action shall be subject to the approval of the director of civil service.

Subd. 5. [Repealed, 1957 c 141 s 1]

Subd. 6. [Repealed, 1957 c 141 s 1]

Subd. 7. [Repealed, 1967 c 193 s 7]

Subd. 8. **Special reinstatements.** Notwithstanding the provisions of section 43.22, subdivision 4, any person who was under the classified service of the state and had taken a leave of absence prior to April 1, 1942, and who was engaged in defense activities and became immobilized in such defense activities during world war II which caused his resignation from the classified service prior to July 1, 1942, shall be reappointed to his former classification under the classified service of the state; however, he shall waive all rights to seniority, to repayment privileges on pension rights, or to any other privileges that may have accrued to such position.

[1939 c 441 s 22; 1941 c 533 s 4; 1943 c 640 s 2, 3; 1947 c 604 s 4; 1957 c 296 s 1, 2; 1959 c 628 s 1; 1961 c 560 s 5; 1961 c 637 s 1] (254-70)

**43.221 LONGEVITY INCREASE; CERTAIN EMPLOYEES.** Notwithstanding any provisions of Minnesota Statutes 1965, Section 43.125, Subdivision 2, to the contrary, any employee of the state who was initially employed in the classified service and who has been continuously employed to perform the same duties for

not less than fifteen years and who is presently employed in the classified service and who is presently being paid at the maximum adjusted salary for his class, shall be eligible to receive a longevity increase, upon recommendation of his appointing authority, of one additional step above the maximum adjusted salary for his class. This section is in effect as of July 1, 1966.

[1967 c 805 s 1]

**43.222 TRANSFERS; SICK LEAVE BENEFITS IN CERTAIN CASES.** An employee in the unclassified service of the state, who is subsequently employed in the classified service within a period of one year following the last day of service in the unclassified service, shall have his accumulated sick leave posted to his credit in the records of the employing department. The manner in which the sick leave is accumulated shall be in accordance with the civil service rules as they apply to the classified service. This section is in effect as of July 1, 1961.

[1967 c 805 s 2]

**43.225** [Repealed, 1957 c 141 s 1]

**43.226** [Repealed, 1957 c 141 s 1]

**43.23 SENIORITY RIGHTS; POSITIONS ABOLISHED; PREFERENCE.** Subdivision 1. **Right of seniority.** When one or more employees in the classified service are laid off because of a shortage of funds or curtailment of service or for any other reason beyond their control, the order of layoff shall be determined according to rules established by the board, which shall be based on seniority within the department, and the names of such employees shall be placed at the head of the appropriate registers.

Subd. 2. **Notice of layoff.** In every case of layoff of a permanent officer or employee, the appointing authority shall, at least 15 days before the effective date thereof, give written notice to the employee and the director of civil service and may certify to the director the reasons therefor. In any case where an appointing authority refuses to certify, or fails to certify before the effective date thereof, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions concerning dismissals, as provided in this chapter.

Subd. 3. **Positions abolished.** When positions in the classified service are abolished by statute or by administrative action, the names of the incumbents of these positions, if they are members of the classified service, shall be placed at the head of the appropriate register, according to seniority.

Subd. 4. **Preferences.** Persons who have been separated from the classified service because of layoff or the abolition of positions shall be given preference over all other eligibles in filling vacancies in the same or similar positions within the department in which they were employed immediately prior to their separation from the service, and the director shall certify for each vacancy only the former officer or employee whose name stands first on the appropriate eligible register.

Subd. 5. **Military service.** In determining seniority rights of any state employee who held a position in the classified service and became separated therefrom to enter military service, and who was honorably discharged therefrom and reentered state service within six months thereafter, full credit shall be given for all state service prior to such military service.

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

**43.24 REMOVAL.** Subdivision 1. **Written statement.** No permanent employee in the classified service, under the provisions of this chapter or the rules made pursuant thereto, shall be removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position, except for just cause, which shall not be religious or political. In case of any disciplinary action, as enumerated in this section, the employee shall, before the action is taken, be furnished with a statement, in writing, setting forth the reasons for the disciplinary action, be permitted five days time to reply thereto, in writing, or upon his request, to appear personally and reply to the head of the department. A copy of the statement and the employee's reply, if any, shall be filed with the director of civil service prior to the effective date thereof.

Subd. 2. **Appeal to board; public hearings, findings, pre-hearing conference.** Any permanent employee who is removed, discharged, suspended without pay for more than 30 days in any one year, or reduced in pay or position may appeal to the board within 30 days after such action is taken. Upon such appeal, both the appealing employee and the appointing authority or their representatives shall

meet with the director, acting as the agent of the board, or with any other person appointed by the board, at a place and on such date as set by him for the purpose of determining the facts at issue. If mutually satisfactory to both parties, the board may waive the requirement for a pre-hearing conference. At the pre-hearing conference, both parties may stipulate on mutually agreed matters relevant to the dismissal or other disciplinary action referred to in this subdivision. Those issues, upon which agreement cannot be reached, shall be reported to the board by the agent conducting the hearing and he shall furnish copies to both parties. If the agent, during the course of a pre-hearing conference, is successful in reaching a mutually agreed settlement between both parties, such agreement shall be certified to the board, with copies furnished to both parties, and such agreement, if approved by the board, shall become binding on both parties.—The pre-hearing conference shall be conducted in such manner and follow such procedures as prescribed by the board. The issues and facts on which agreement cannot be reached during the pre-hearing conference will be decided by the board following the hearing on appeal at which hearing technical rules of evidence shall not apply. If the board finds that the action complained of was taken by the appointing authority for any political, racial or religious reason, or if the board finds that there was no reasonable ground for institution of dismissal proceedings, the employee shall be reinstated to his position, or an equal position in another department or division, without loss of pay. If the board finds that there is insufficient ground for institution of dismissal proceedings, or if extenuating circumstances are brought out in testimony and evidence, it may in its discretion reinstate the employee, with full, partial, or no pay, or it may modify the appointing authority's action by substituting a lesser disciplinary action. In those cases in which the board finds the grounds of dismissal reasonable, the findings and recommendations of the board shall be submitted to and considered by the appointing authority, who may, not later than 30 days after receipt of such findings and recommendations, reinstate the employee with or without pay for the period of suspension, or otherwise modify his original decision of suspension, demotion, or discharge. When any permanent employee is dismissed and not reinstated after appeal, the board may direct that his name be placed on an appropriate reemployment list, for employment in any similar position other than the one from which he has been removed, which direction shall be enforced by the director.

**Subd. 3. Request for written statement.** When any such permanent employee shall be suspended without pay for 30 days or less, he shall upon his written request therefor, within 30 days time after being notified of such disciplinary action, be furnished with a statement in writing specifically setting forth the reasons for the disciplinary action, and a copy of such statement shall then also be filed with the director of civil service.

[1939 c 441 s 24; 1943 c 607 s 1; 1947 c 604 s 5; 1955 c 431 s 1; 1955 c 774 s 5, 6; 1965 c 497 s 1] (254-72)

#### **43.25 DIRECTOR NOTIFIED OF ANY DISCHARGE OR EMPLOYMENT.**

Each appointing officer shall report to the director forthwith, in writing, upon any appointment or employment in the service, the name of the appointee, or employee, the title and character of his office or employment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and shall report, from time to time, upon the date of the official action in, or knowledge of, any separation of a person from the service, or any promotion, reduction, suspension, transfer, reinstatement, or other change therein, the efficiency of his subordinates and employees, and other information, in such manner as may be prescribed by the director and the rules and regulations adopted by the board.

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

**43.26 PAYROLLS, CERTIFICATION.** Subdivision 1. **Salary estimate pay-roll required.** Neither the state auditor nor other fiscal officer of this state shall draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the classified or unclassified service of the state, unless an estimate pay-roll or account for such salary or compensation containing the name of every person to be paid shall bear the certificate of the director of the civil service that the persons named in such estimate, pay-roll, or account have been appointed, employed, reinstated, or promoted and are performing service as required by law and the rules

established hereunder and that the salary or compensation is within the salary or wage schedule fixed pursuant to law. This provision shall not apply to positions defined in section 43.09, subdivision 2, clauses (1), (4), (6), (8), (9), (10), (11), (13), (14), and (15), nor to teachers, research assistants, student employees on less than half-time pay basis, presidents, deans, and administrative officers in the teachers colleges.

**Subd. 2. Salaries paid contrary to provisions recovered from appointing officer.** Any sum wilfully paid contrary to the provisions of this section may be recovered from any officer making the appointments in contravention of the provisions of law or of the rules made in pursuance of law, or from any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of same, or from the sureties on the official bond of any officer, in an action in the district court of any county within the state, maintained by the director of the civil service or any member of the civil service board. All moneys recovered in any action brought under this section when collected shall be paid into the state treasury.

**Subd. 3. Action against appointing officers; not reimbursed for sums paid.** Any person employed or appointed contrary to the provisions of this chapter and the rules hereunder, whose pay-roll or account is refused certification, shall have action against the appointing officer employing or appointing or attempting to employ or appoint him for the amount due by reason of the employment or purported employment and the costs of the action. No appointing authority, during the time of his official service, or thereafter, shall be reimbursed by the state for any sum so paid or recovered in any such action.

**Subd. 4. Director to make special rules.** The director shall have power to make special rules and regulations for matters requiring conformance to federal law or regulations.

[1939 c. 441 s. 26; 1941 c. 533 s. 5] (254-74)

**43.27 COMPLIANCE WITH LAW.** All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this chapter and the rules prescribed hereunder. Any wilful violation of this chapter by officers, officials, or employees of the state shall be deemed a misdemeanor and punished accordingly. Conviction of same shall render the public office or position held by such person vacant.

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

**43.28 POLITICAL ACTIVITIES PROHIBITED.** No officer or employee holding a position in the classified service of this state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assistance, assessment, or subscription, whether voluntary or involuntary, for any political purpose or for any political party or affiliate thereof. No officer, agent, clerk, or employee of this state shall, directly or indirectly, use his authority or official influence to compel any officer or employee in the classified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity. Any person who violates any provision of this section shall be guilty of a misdemeanor, and shall be punished accordingly, and if any officer or employee in the classified service is found guilty of violating any provision of this section, he is automatically separated from the service.

Except as herein provided any officer or employee in the state classified service shall be eligible for leave of absence from the service not to exceed one year upon becoming a candidate for public office. Officers or employees in the state classified service may be candidates for and occupy a city, county, village, township or school district office without taking a leave of absence if such compensation for such office does not exceed \$600 per year and if holding such office will not conflict with such regular state employment.

[1939 c. 441 s. 29; 1951 c. 655 s. 1; Ex1967 c. 39 s. 1] (254-77)

**43.29 ACCOMMODATIONS FURNISHED EXAMINERS.** The officers having control of public buildings in political subdivisions of the state and school districts shall, upon request of the director of the civil service, furnish without charge convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The director may request state or local officers or employees to aid in carrying out the provisions of this chapter and it shall be the duty of such officers

and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the director.

[1939 c 441 s 30; 1963 c 754 s 3] (254-78)

**43.30 VETERANS PREFERENCE.** In all examinations under this chapter a veterans' preference shall be given to every person who is a veteran as defined in Minnesota Statutes 1965, Section 197.45, Subdivision 1; who are citizens of the United States and have been residents of the state of Minnesota five years immediately preceding their application or who enlisted from the state of Minnesota, and to persons who served in the active military or naval service of any government allied with the United States in World War I or World War II, and have been honorably discharged therefrom, and who are citizens of the United States and were such citizens at the time of entrance into such active service, and have been residents of the state of Minnesota five years immediately preceding their application or who enlisted from the state of Minnesota. And the veteran thus preferred shall not be disqualified from holding any position in the classified service on account of his age or by reason of any physical disability provided such age or physical disability does not render him incompetent to perform the duties of the position.

Recognizing that training and experience in the services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily discovered by examination; there shall be added to the examination rating of a disabled veteran a credit of ten points, and in open competitive examination only if such augmented rating gives to such disabled veteran a passing grade and such disabled veteran is able to perform the duties of the position sought with reasonable efficiency, his name shall be placed at the head of the eligible list for such position.

There shall be added to the examination rating of all other veterans a credit of five points, and if such augmented rating gives to such veteran a passing grade and if such veteran is able to perform the duties of the position with reasonable efficiency, his name shall be placed on the list of eligibles with the names of other eligible persons. The name of a veteran with such augmented rating shall be entered ahead of a non-veteran when their ratings are the same.

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

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

A disabled veteran is one who is rated or certified as disabled by the United States Veterans Administration, or by the retirement boards of the several branches of the armed forces, and which disability is existing at the time preference is claimed.

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

[1939 c 441 s 31; 1943 c 157 s 1; 1947 c 395 s 1; 1949 c 222 s 1; 1953 c 699 s 2; Ex 1967 c 4 s 1] (254-79)

**43.31 SERVICES AVAILABLE TO POLITICAL SUBDIVISIONS; APPROPRIATION.** The services and facilities of the state civil service department and its staff shall be available upon request, subject to rules prescribed therefor by the board, to political subdivisions of the state. In making such service and facilities available, it shall be understood that requirements for the enforcement and administration of the provisions of this chapter shall be given precedence and that the political subdivisions shall reimburse the state for the reasonable cost of such services and facilities.

The board may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The board may also join or subscribe to any association or service having as its purpose the interchange of information relating to the technique of personnel administration. There is hereby appropriated to the state civil service

department from such moneys as are credited to their account an amount sufficient to pay for the purposes of this section.

[1939 c 441 s 32; 1959 c 157 s 3] (254-80)

**43.32 TRAINING PROGRAM.** The director of civil service shall devise plans for and cooperate with appointing authorities and other supervisory officers in the conduct of employee training programs, to the end that the quality of service rendered by persons in the state civil service may be continually improved. Provision may be made in the rules adopted by the civil service board to permit employees in the classified service to secure leaves of absence for the purpose of enrolling in courses of training for government service; and provision also may be made in these rules to permit qualified students to serve as internes or apprentices for a period not greater than two years in the several departments and agencies concerned except for psychiatric residencies where the period shall not exceed five years.

[1939 c 441 s 33; 1955 c 533 s 1; 1957 c 758 s 1] (254-81)

**43.33** [Repealed, 1957 c 141 s 1]

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

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

**43.35 VIOLATIONS; PENALTIES.** Any civil service board member, director, or examiner or any other person,

(1) who wilfully or corruptly, by himself or in cooperation with one or more persons, defeats, deceives, or obstructs any person with respect to his rights of examination or application according to this chapter, or to any rules or regulations prescribed pursuant thereto, or

(2) who wilfully or corruptly falsely marks, grades, estimates, or reports upon the examination or proper standing of any person examined, registered, certified, employed, or promoted pursuant to the provisions of these sections, or aids in so doing, or who wilfully destroys any examination questions, answers, or records thereon of any applicant for civil service within a period of one year after any examination has been completed, or

(3) who wilfully or corruptly makes or files any false representations concerning the persons examined, registered, certified, appointed, employed, or promoted, or

(4) who wilfully or corruptly furnishes any person with any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered, or certified, being appointed, employed, or promoted, or

(5) who personates any other person, or permits or aids in any manner any other person to personate him in connection with any examination or registration, or application or request to be examined or registered, or

(6) who wilfully or corruptly shall appoint to a position in the classified service, or dismisses, suspends, reduces in rank or pay any officer or employee from any position in the classified service otherwise than in compliance with, and in conformity to, the provisions of this chapter and the rules and regulations of the civil service board adopted pursuant thereto, or

(7) who wilfully or corruptly refuses or neglects otherwise to comply with, or conform to, the provisions of this chapter and the rules and regulations made pursuant thereto, or violates any of these provisions, shall be deemed guilty of a misdemeanor and punished accordingly.

Any conviction under this section shall render the public officer or position held by the person so convicted vacant, and such person shall be ineligible to hold public office for a period of five years from the date of the conviction.

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

**43.36** [Repealed, 1957 c 141 s 1]

## LIFE AND HEALTH BENEFITS

**43.42 INSURANCE BENEFITS INTENT.** It is the intent of sections 43.42 to 43.49 to provide certain state officers and employees with basic life insurance and basic health benefits coverage, including such basic health benefits coverage as the board may make available from prepaid group practice plans, to be paid for by the state and to authorize an eligible state officer or employee to enroll himself, and his dependents in such optional coverages as are made available therefor by the board to be paid for by such officer or employee through payroll deductions.

[1965 c 780 s 1; 1967 c 103 s 1]

**43.43 DEFINITIONS.** As used in sections 43.42 to 43.49(a) "state employee" for the purpose of determining eligibility for the basic life insurance and basic health benefits coverage hereunder means:

(1) An officer or employee in the classified service of the state civil service paid on a state payroll;

(2) An officer or employee in the unclassified service of the state paid on a state payroll who is not excluded from any of the provisions of Minnesota Statutes, Sections 43.42 to 43.49;

(3) An elective or appointed officer in the executive branch of the state government;

(4) A permanent officer or employee of the legislature or a permanent employee of a permanent study or interim committee or commission;

(5) A judge of the supreme court or an officer or employee of such court; a judge of the district court;

(6) A salaried officer or employee of the public employees retirement association;

(7) Full time military or civilian personnel in the unclassified service of the department of military affairs whose salary is paid from state funds;

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

(9) An employee of the regents of the university of Minnesota, who is a member of the academic staff with the rank of instructor, research fellow, or above, including a lecturer; serving on not less than 75 percent regular appointment;

(10) An employee of the regents of the university of Minnesota and a member of the civil service staff under the civil service plan, adopted by the university of Minnesota, who is employed on a monthly salaried appointment;

(11) An employee of the state college board or the state junior college board who is a member of the academic staff, who is employed for not less than a 75 percent time basis, and who is paid on a state salary payroll; or

(12) An employee of the state college board or state junior college board who is either in the classified service or the unclassified service of the state civil service whose salary is paid from the college board of the state of Minnesota, revenue fund or the college activity fund. The required premium payment of such an employee is to be paid, however, from the fund from which the employee's salary is paid.

(13) A member of the state legislature, but no basic life insurance and health coverages shall be paid for a member of the legislature until the first Monday in January, 1969.

(14) A seasonal employee of the waters, soils and minerals division of the state department of conservation whose duties include the sampling, weighing or grading of iron ore, taconite, or other minerals; provided further that such an employee shall receive the benefits provided for in Minnesota Statutes, Section 43.42, to 43.50, at no cost to the employee for the period in each calendar year when said employee is not working at his said occupation, and the premiums therefore shall be paid from the same salary fund or account as the salary of such employee is paid from.

(b) "Hospital benefits coverage" means:

A plan which either provides coverage for, or pays, or reimburses, expenses for hospital services.

(c) "Medical benefits coverage" means:

A plan which either provides coverage for, or pays, or reimburses, expenses for medical services and medical expenses prescribed by a doctor.

(d) "Employee life insurance benefits coverage" means:

A plan which provides for life insurance coverage on the lives of eligible em-



ployees. Waiver of premium disability benefit and accidental death and dismemberment coverage may be included.

(e) "Carrier" means:

(1) For the hospital benefits coverage, an insurance company licensed to do business in the state or a nonprofit hospital service association or a prepaid group practice hospital care plan authorized to do business in the state.

(2) For the medical benefits coverage, an insurance company authorized to do business in the state or a nonprofit medical service association or a prepaid group practice medical care plan authorized to do business in the state.

(3) For the employee life insurance benefits coverage, an insurance company authorized to do business in the state.

(f) "Board" means the state employees insurance benefit board which is hereby created and which is composed of the governor, the state treasurer, the state auditor, the secretary of state, the attorney general, the insurance commissioner, the director of civil service, the commissioner of administration, and two members elected by the eligible state employees in a manner to be determined by the other members of the board, each for a four year term beginning July 1, 1965.

(g) "Commissioner" means the commissioner of administration.

(h) A new eligible state employee's basic coverages shall become effective on the first day of the first payroll period beginning on or after the 28th day following the first day of employment.

[1965 c 780 s 2; 1967 c 103 s 2; 1967 c 905 s 5]

**43.44 ENROLLMENT OF ELIGIBLE EMPLOYEES.** Subdivision 1. Every eligible employee meeting the requirements of subdivision 2 shall, at such time, in such manner, and under such conditions of eligibility as the board may by regulation prescribe, be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage and the medical benefits coverage. Such regulations shall be within the framework of intent as set forth in section 43.42.

Subd. 2. A state employee determined to be eligible for the benefits provided in sections 43.42 to 43.49 shall continue to be eligible therefor so long as he appears on a state payroll for at least one working day during each payroll period except as otherwise provided in this subdivision. If the state employee is employed on the basis of a school year and whose employment contemplates absences from the state payroll during the summer months and during vacation periods occurring at Christmas, New Years, and Easter, he nonetheless shall continue to be eligible for such benefits provided he appears on his regular payroll for at least one working day for the payroll period immediately preceding such vacation periods. An academic employee of the university of Minnesota, the state college board, or the state junior college board, otherwise eligible for basic life insurance and basic health benefits coverage paid for by the state shall have continuous basic coverages maintained during the period of a sabbatical leave.

If the state employee is granted a leave of absence to work for the legislature or either branch thereof, during a regular or special legislative session, he nonetheless shall continue to be eligible for such benefits provided he appears on the state payroll or the legislative payroll for at least one working day for each payroll period.

A state employee who is disabled and off the state payroll as a result of personal injury arising out of and in the course of employment with the state and is otherwise eligible for the basic life insurance and basic health benefits coverage paid for by the state shall be eligible for state paid for coverage and shall continue to be eligible therefor during the period such employee is receiving workmen's compensation payments for temporary total or temporary partial disability pursuant to award of the industrial commission.

Subd. 3. A member of the state legislature who becomes eligible for basic life insurance and health coverages on or after the first Monday in January, 1969, may decline to be enrolled for such basic coverages by filing a written waiver with the board, provided that such waiver shall not prohibit that person from enrolling himself or his dependents for optional coverages, without cost to the state, as otherwise provided for in Laws 1967, Chapter 103.

[1965 c 780 s 3; 1967 c 103 s 3; 1967 c 759 s 3]

**43.45 CONTRACTING AUTHORITY.** Subdivision 1. The board is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the sole judgment of the board are best qualified to underwrite and service the benefit plans. The board shall consider such factors

# MINNESOTA STATUTES 1967

499

CIVIL SERVICE, STATE EMPLOYEES 43.47

as the cost and conversion options relating to the contracts as well as the service capabilities, character, financial position, and reputation with respect to such carriers and any other factors which, the board may deem appropriate. Each such contract shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

Subd. 2. Each contract under sections 43.42 to 43.49 shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the board may deem necessary or desirable.

Subd. 3. The board shall make available through such carriers as it may authorize as many optional coverages as it deems feasible and advantageous to eligible state employees and their dependents which said employees may pay for at their own expense to be paid for through payroll deductions.

[1965 c 780 s 4; 1967 c 103 s 4]

**43.46 CONTRIBUTIONS BY STATE.** The total contribution by the state for each state employee under sections 43.42 to 43.49 shall be otherwise prescribed by law and which contribution shall be applied to provide basic hospital benefits, basic medical benefits and basic life insurance of such amounts as may be determined from time to time by the board.

[1965 c 780 s 5; 1967 c 103 s 5]

**43.47 EXCLUSION OF CERTAIN STATE EMPLOYEES.** Except as provided in section 43.491, the persons enumerated in this section and their dependents are specifically excluded from the terms and provisions of sections 43.42 to 43.49:

(1) An emergency, temporary, or intermittent employee of the state; a part time or seasonal employee of the state serving on less than a 75 percent time basis; but this exclusion shall not apply to a part time or seasonal employee of the state in the classified service who prior to April 1, 1967 was eligible for state paid basic life insurance and health benefits;

(2) A trainee;

(3) A deputy registrar of motor vehicles;

(4) An election official;

(5) An independent contractor engaged in work for the state under a contract or any employee thereof;

(6) A judge of any court, and an officer or employee thereof except as otherwise provided in section 43.43;

(7) A notary public;

(8) Patient or inmate help in a state institution including but not limited to the Minnesota veterans home;

(9) A student at a state educational institution who may be employed as student help;

(10) A person rendering a professional service whose duties are assigned and whose compensation is paid for on a per diem basis;

(11) A member of a state board or commission who serves the state intermittently, who serves without compensation or who is paid on a per diem basis; an officer, including a secretary or treasurer, employed by such board or commission whose compensation is less than \$2,000 per year;

(12) A temporary officer or employee of the legislature or a temporary employee of a study or interim committee or commission except as otherwise provided for in section 43.44, subdivision 2;

(13) An employee of the board of regents of the university of Minnesota on the academic staff serving on less than a 75 percent regular appointment;

(14) An employee of the board of regents of the university of Minnesota and a member of the civil service staff under the civil service plan, adopted by the university of Minnesota, who is employed on an emergency, temporary, or intermittent basis; a part time or seasonal employee or member serving on less than a 75 percent time basis;

(15) An employee of the board of regents of the university of Minnesota, who has chosen to have his wages and fringe benefits governed by the terms of a master or uniform contract ("prevailing rate" employee) in accordance with the provisions of the university of Minnesota civil service rule 6.12 as adopted and amended by the board of regents of the university of Minnesota; or

(16) An employee in the unclassified service of the state civil service who is

employed by the state college board or the state junior college board as a member of the academic staff serving on less than a 75 percent time basis;

(17) An officer or employee of the state agricultural society; an employee of the board of regents of the university of Minnesota who is eligible for coverage under the federal employees health benefits program;

(18) A person employed in the federal economic opportunity act program, including but not limited to a neighborhood youth corps enrollee and work site supervisor, but this exclusion shall not apply to any person who otherwise meets the eligibility requirements of sections 43.42 to 43.49 and performs administrative and clerical duties in connection with the administration by the state of the program, provided the required premium is paid from such federal funds as may be available for the administrative costs of the program; or

(19) A person, other than one described in section 43.43, clauses (a) (9) and (a) (10), participating in any other governmental group life insurance or health benefits program.

[1965 c 780 s 6; 1967 c 103 s 6; 1967 c 148 s 2; 1967 c 759 s 1]

**43.48 ADMINISTRATION.** After the board shall have entered into contracts with carriers as provided in section 43.45, it shall be the responsibility of the commissioner to account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions as the board may determine to be necessary to carry out the intent of sections 43.42 to 43.49. The board may promulgate such regulations as may be necessary to carry out the provisions of sections 43.42 to 43.49.

[1965 c 780 s 7]

**43.49 REPORTS AND AUDITS.** Subdivision 1. The board shall transmit to each regular session of the legislature a report concerning the operations of sections 43.42 to 43.49.

Subd. 2. The board shall include provisions in contracts with carriers which would require carriers to (1) furnish such reasonable reports as the board determines to be necessary to enable it to carry out its functions under sections 43.42 to 43.49, and (2) permit the board to examine records of the carriers as may be necessary to carry out the purposes of sections 43.42 to 43.49.

Subd. 3. Each state department and agency shall keep such records, make such certifications, and furnish the board or carriers with such information and reports as may be necessary to enable the board or carriers to carry out its functions under sections 43.42 to 43.49.

[1965 c 780 s 8]

**43.491 OPTIONAL COVERAGES FOR NONELIGIBLE STATE EMPLOYEES.** Subdivision 1. A member of the legislature until the first Monday in January, 1969, or a person not specifically included as an eligible state employee in section 43.43, or not specifically excluded by section 43.47, if employed on a state payroll, and his dependents may be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage, the medical benefits coverage, and such optional coverage, without cost to the state, at such time, in such manner, and under such conditions of eligibility as the board may by regulation prescribe and otherwise approve. If such person and his dependents are enrolled in such coverages the board may also provide by regulation for payroll deductions to be made in the same manner, and under the same conditions, as provided for by section 43.50, subdivision 1a, authorizing payroll deductions for an eligible state employee and his dependents.

Subd. 2. The following persons enumerated in this subdivision though excluded by Laws 1967, Chapter 103, from coverage, are nonetheless eligible for coverages at their own expense pursuant to the provisions of subdivision 1:

(1) A part time or seasonal employee of the state serving on less than a 75 percent time basis;

(2) An employee of the board of regents of the university of Minnesota on the academic staff serving on less than a 75 percent regular appointment;

(3) A part time or seasonal employee of the board of regents of the university of Minnesota and a member of the civil service staff under the civil service plan serving on less than a 75 percent time basis;

(4) An employee in the unclassified service of the state civil service who is employed by the state college board or the state junior college board as a member of the academic staff serving on less than a 75 percent time basis;

(5) An officer or employee of the state agricultural society;

(6) A civilian employee of the adjutant general who is paid from federal funds and who is not eligible to benefits from any federal civilian employee group life insurance or health benefits program.

[1967 c 103 s 7; 1967 c 759 s 2]

**43.50 PAYMENT OF PREMIUMS.** Subdivision 1. Each department or agency of the state government shall pay the amounts due for basic life insurance and basic health benefits coverage authorized for eligible state employees as provided by Laws 1967, Chapter 103. Each of such departments and agencies shall pay such amounts from such accounts and funds from which each department or agency receives its revenues, including appropriations from the general revenue fund and from any other fund, now or hereafter existing for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. Such sums of money as are necessary for such purposes are hereby appropriated to such departments and agencies from such account and funds in the state treasury. In order to enable the state auditor to maintain proper records covering the appropriations made by this section, he may require such certifications in connection therewith as he may deem necessary from any state department or agency whose officers and employees receive benefits pursuant to Laws 1967, Chapter 103. The accounts and funds referred to from which departments and agencies receive appropriations under the terms of this section are hereby declared to be a source of revenue for the purposes of any other law or statutory enactment.

Subd. 1a. If an eligible state employee enrolls himself or his dependents for any of the optional coverages made available by the board pursuant to subdivision 3 of section 43.45, the state auditor, upon such employee's written order, shall deduct from the salary or wages of such employee those amounts required from time to time to maintain such optional coverages in force, and issue his warrant therefor to the appropriate carrier.

Subd. 2. If for any reason there is insufficient moneys in the state treasury to provide moneys to expend under the appropriations made by subdivision 1 from any account or fund in the state treasury, such additional moneys as may be necessary therefor are hereby appropriated from the general revenue fund in the state treasury for such purpose.

Subd. 3. In order to provide sufficient moneys to administer the life insurance and health benefit plan referred to in this section as otherwise provided for during the 1965 session of the legislature, there is appropriated for such purposes from the general revenue fund in the state treasury the sum of \$25,000 for the fiscal year beginning July 1, 1965, and the additional sum of \$50,000 for the fiscal year beginning July 1, 1966.

[1965 c 901 s 83; 1967 c 103 s 8, 9]