

CHAPTER 43A

DEPARTMENT OF EMPLOYEE RELATIONS

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43A.02 DEFINITIONS.

[For text of subs 1 to 24, see M.S.1982]

Subd. 25. **Judicial branch.** "Judicial branch" means all judges of the appellate courts, all employees of the appellate courts, including commissions, boards and committees established by the supreme court, the board of law examiners, the law library, the office of the public defender, and all judges of all courts of law and other agencies placed in the judicial branch by law.

[For text of subs 26 to 40, see M.S.1982]

History: 1983 c 247 s 19

43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER.

[For text of subs 1 to 7, see M.S.1982]

Subd. 8. **Donation of time by state patrol.** Notwithstanding any law to the contrary, the commissioner shall authorize the appointing authority to permit the donation of up to three hours of accumulated vacation time in each year by each employee who is a member of law enforcement unit number 1 to their union representative for the purpose of carrying out the duties of his or her office.

History: 1983 c 293 s 61

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

[For text of subs 1 to 4, see M.S.1982]

Subd. 5. **Comparability adjustments.** The commissioner shall compile, subject to availability of funds and personnel, and submit to the legislative commission on employee relations by January 1 of each odd-numbered year a list showing, by bargaining unit, and by plan for executive branch employees covered by a plan established pursuant to section 43A.18, those female-dominated classes and those male-dominated classes in state civil service for which a compensation inequity exists based on comparability of the value of the work. The commissioner shall also submit to the legislative commission on employee relations, along with the list, an estimate of the appropriation necessary for providing comparability adjustments for classes on the list. The commission shall review and approve, disapprove, or modify, the list and proposed appropriation. The commission's

action shall be submitted to the full legislature in the same manner as provided in section 3.855 and section 43A.18 or section 179.74, subdivision 5, provided that the full legislature may approve, reject, or modify the commission's action. The commission shall show the distribution of the proposed appropriation among the bargaining units and among the plans established under 43A.18. Each bargaining unit and each plan shall be allocated that proportion of the total proposed appropriation which equals the cost of providing adjustments for the positions in the unit or plan approved by the commission for comparability adjustments divided by the total cost of providing adjustments for all positions on the list approved by the commission for comparability adjustments. Distribution of any appropriated funds within each bargaining unit or plan shall be determined by collective bargaining agreements or by plans.

[For text of subd 6, see M.S.1982]

History: 1983 c 301 s 100

43A.08 UNCLASSIFIED SERVICE.

[For text of subd 1, see M.S.1982]

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; economic security; education; employee relations; energy and economic development; finance; health; human rights; labor and industry; natural resources; public safety; public service; public welfare; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; the state board of investment; the offices of the secretary of state, state auditor, and state treasurer; and the state board of vocational technical education.

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

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

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

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

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

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

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

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

[For text of subds 1b to 3, see M.S.1982]

History: 1983 c 258 s 11; 1983 c 289 s 10

43A.10 EXAMINATIONS; ELIGIBILITY TO COMPETE.

[For text of subs 1 to 7, see M.S.1982]

Subd. 8. **Eligibility for qualified handicapped examinations.** The commissioner shall establish examination procedures for candidates whose handicaps are of such a severe nature that the candidates are unable to demonstrate their abilities in competitive examination processes. The examination procedures shall consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the employee will be paid or unpaid at the employee's option. This work experience shall be limited to candidates who are mentally retarded, have severe hearing or visual impairments, have mobility impairments requiring the use of a wheelchair, or have other impairments that comprise serious employment handicaps and who have been referred for employment to a specific suitable vacancy by a vocational rehabilitation, veterans administration, or services for the blind counselor. Implementation of provisions of this subdivision shall not be deemed a violation of other provisions of Laws 1981, chapter 210 or chapter 363.

History: 1983 c 39 s 1

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

Subdivision 1. **Salary limits.** As used in this section, "salary" means hourly, monthly, or annual rate of pay including any lump-sum payments and cost-of-living adjustment increases but excluding payments due to overtime worked, shift or equipment differentials, work out of class as required by collective bargaining agreements or plans established pursuant to section 43A.18, and back pay on reallocation or other payments related to the hours or conditions under which work is performed rather than to the salary range or rate to which a class is assigned.

The salary, as established in section 15A.081, of the head of a state agency in the executive branch is the upper limit of compensation in the agency. The salary of the commissioner of labor and industry is the upper limit of compensation of employees in the bureau of mediation services. However, if an agency head is assigned a salary that is lower than the current salary of another agency employee, the employee shall retain the salary, but shall not receive any increase in salary as long as the salary is above that of the agency head. The commissioner may grant exemptions from these upper limits as provided in subdivisions 3 and 4.

[For text of subs 2 to 7, see M.S.1982]

Subd. 8. **Accumulated vacation leave.** The commissioner of employee relations shall not agree to a collective bargaining agreement or recommend a compensation plan pursuant to section 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections 179.61 to 179.76, if the compensation plan, agreement, or award permits an employee to convert accumulated vacation leave into cash or deferred compensation before separation from state service.

Subd. 9. **Political subdivision salary limit.** The salary of a person employed by a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state, or employed pursuant to section 422A.03, may not exceed 95 percent of the salary of the governor, except as provided in this subdivision. The salary of a medical doctor occupying a position that the governing body of the political subdivision has

determined requires an M.D. degree is excluded from the limitation in this subdivision. The commissioner may increase the limitation in this subdivision for a position that the commissioner has determined requires special expertise necessitating a higher salary to attract or retain a qualified person. The commissioner shall review each proposed increase giving due consideration to salary rates paid to other persons with similar responsibilities in the state. The commissioner may not increase the limitation until the commissioner has presented the proposed increase to the legislative commission on employee relations and received the commission's recommendation on it. The recommendation is advisory only.

History: 1983 c 299 s 12-14

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

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. **Managerial plan.** The commissioner shall identify individual positions or groups of positions in the classified and unclassified service, in the executive branch as being managerial. The list shall not include positions listed in subdivision 4. The commissioner shall annually submit the listing of positions to the chairperson of the legislative commission on employee relations for the commissioner's review and comment, and shall note on each listing the changes from the prior year.

(a) The commissioner shall periodically prepare a plan for total compensation and terms and conditions of employment for employees of those positions identified as being managerial and whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A. Before becoming effective those portions of the plan establishing compensation and terms and conditions of employment shall be reviewed and approved or modified by the legislative commission on employee relations and the legislature in the same manner as provided for the commissioner's plan in subdivision 2.

(b) Incumbents of managerial positions as identified under this subdivision shall be excluded from any bargaining units under the provisions of chapter 179.

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

Subd. 4. **Plans not established but approved by commissioner.** Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision shall be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective.

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

(b) Total compensation for unclassified positions pursuant to section 43A.08, subdivision 1, clause (h), in the higher education coordinating board, and in the state board of vocational technical education shall be determined by the state university board and the state board for community colleges, the higher education coordinating board, and the state board of vocational technical education, respectively.

(c) Total compensation for classified hearing examiners in the office of administrative hearings shall be determined by the chief hearing examiner.

Subd. 5. **Governor to recommend certain salaries.** The governor shall, on or before July 1 of each odd numbered year, submit to the legislative commission on employee relations recommendations for salaries within the salary range for the positions listed in section 15A.081, subdivision 1. The governor may also propose additions or deletions of positions from those listed.

(a) Before submitting the recommendations, the governor shall consult with the commissioner of administration, the commissioner of finance, and the commissioner of employee relations concerning the recommendations.

(b) In making recommendations, the governor shall consider only those criteria established in subdivision 8 and shall not take into account performance of individual incumbents. The governor shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities and accountabilities and in determining recommendations rate each position by this system.

(c) Before the governor's recommended salaries take effect, the recommendations shall be reviewed and approved, rejected or modified by the legislative commission on employee relations and the legislature in the same manner as provided for the commissioner's plan in subdivision 2. The governor may also at any time propose changes in the salary rate of any positions covered by this subdivision, which shall be submitted and approved in the same manner as provided in this subdivision.

(d) The initial salary of a head of an agency hereafter established whose salary is not specifically prescribed by law shall be fixed by the governor, after consultation with the commissioner, whose recommendation shall be advisory only, in an amount comparable to the salary of an agency head having similar duties and responsibilities.

[For text of subds 6 to 8, see M.S.1982]

History: 1983 c 216 art 1 s 12; 1983 c 258 s 12; 1983 c 299 s 15-17

43A.21 TRAINING PROGRAMS.

[For text of subds 1 to 4, see M.S.1982]

Subd. 5. **Career executive service.** (a) The commissioner shall designate persons in the classified service as eligible for inclusion in the career executive service. By January 1, 1985, at least 20 percent of the persons designated for inclusion in the career executive service must be women. By January 1, 1987, at least 40 percent of the persons designated for inclusion in the career executive service must be women. The positions shall include those that carry basic responsibilities for high level professional or scientific competence, policy determination, leadership, or the internal management and administration of a department or other major unit.

(b) The commissioner shall prepare a plan for training, development, and mobility of career executive service members consistent with applicable provisions

of collective bargaining agreements. The plan need not be adopted in accordance with the rulemaking provisions of chapter 14. The career executive service plan shall not contain additional compensation for members.

(c) No rights or tenure attach to a career executive service assignment. An incumbent in the career executive service may be removed from the service by the appointing authority, provided the action is made without regard to sex, race, religion, color, creed, marital status, age, national origin, disability, or political affiliation.

(d) An employee in career executive service on July 1, 1983, who is receiving compensation at a level beyond the maximum of the assigned salary range shall continue to receive that rate of pay until the rate is within the assigned salary range.

History: 1983 c 299 s 18

43A.23 CONTRACTING AUTHORITY.

Subdivision 1. **General.** The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the judgment of the commissioner are best qualified to underwrite and service the benefit plans. Contracts to underwrite the benefit plans shall be bid or negotiated separately from contracts to service the benefit plans, which shall be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers and any other factors which the commissioner deems appropriate. Each benefit 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. The commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C and 62D. The commissioner need not provide health maintenance organization services to an employee who resides in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization to continue as a carrier if it was selected by less than 200 employees in the preceding benefit year. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. Any carrier licensed pursuant to chapter 62A shall be exempt from the tax imposed by section 60A.15 on premiums paid to it by the state.

[For text of subd 2, see M.S.1982]

Subd. 3. **Contract with insurance carriers.** The commissioner of labor and industry may contract with carriers authorized to provide coverage under the state employees group insurance plan to extend coverage to eligible employees who incur medical expenses due to a personal injury which results from their state employment which is compensable under chapter 176.

History: 1983 c 290 s 1; 1983 c 301 s 101

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

[For text of subd 1, see M.S.1982]

Subd. 2. **Other eligible persons.** The following persons are eligible for state paid life insurance and hospital, medical and dental benefits as determined in applicable collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the Board of Regents for employees of the University of Minnesota not covered by collective bargaining agreements.

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

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

(c) A judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, a judge of county municipal court, or a judge of probate court; a district administrator; and an employee of the office of the district administrator of the fifth or the eighth judicial districts;

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

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

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

(g) An employee of the regents of the University of Minnesota; and

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

be coordinated with relevant health insurance benefits provided through the federally sponsored medicare program.

History: 1983 c 247 s 20

43A.27 ELIGIBILITY FOR INDIVIDUAL PAID INSURANCE AND BENEFITS.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. Retired judges; former legislators. A retired judge or a former legislator may elect to purchase coverage for themselves or their dependents at their own expense as provided below:

(a) A retired judge of the state supreme court, the court of appeals, a district court, a county court, a county municipal court, or a probate court may elect to purchase coverage provided persons listed in section 43A.24, subdivision 2, clause (c), provided that the retired judge exercises this option within 30 days of the effective date of retirement; or

(b) A former member of the legislature may elect to purchase coverage provided persons listed in section 43A.24, subdivision 2, clause (a).

History: 1983 c 247 s 21

43A.31 ADMINISTRATION.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. Insurance advisory task force. The commissioner may appoint and serve as chairman of an insurance advisory task force consisting of 12 members. Three members shall be selected from names submitted by exclusive representatives of state employees. One member shall be selected from names submitted by exclusive representatives of employees of the University of Minnesota. One member shall be selected from names submitted by organizations representing retired state employees. One member shall be selected from names submitted by the regents of the University of Minnesota. The commissioners of administration, insurance, health and finance, and the deputy commissioner for labor relations or their designees, shall serve as the other members. Except as provided in this section, the provisions of section 15.059 shall apply to the members of the task force. The task force shall advise the commissioner in matters relating to insurance, including the administration, design, and financing of insurance programs. Evidence of discussions, recommendations or decisions by the council shall not be submitted to any court or arbitrator in any matter involving state or University of Minnesota employees.

History: 1983 c 260 s 14

43A.41 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. [Repealed, 1983 c 145 s 9]

Subd. 4. Shared position. "Shared position" means a position which has been converted from a full-time position into part-time positions which are in the

same classification series and bargaining unit or plan for purposes of sections 43A.40 to 43A.46.

Subd. 5. **Program.** "Program" means the Minnesota job sharing program.

[For text of subd 6, see M.S.1982]

History: 1983 c 145 s 1-2

43A.42 POSITIONS AFFECTED.

A total of 50 full-time positions within agencies of state government shall be selected for inclusion within the program. No fewer than 15 of these positions shall be either professional, supervisory or managerial positions. In no instance shall a person in a shared time position work less than 40 percent time. No position shall be selected if it is contained in a unit which is represented by an exclusive representative which has a collective bargaining agreement covering the unit unless the exclusive representative agrees to the selection. All shared time positions shall be equivalent in classification to the full-time position from which they are converted.

History: 1983 c 145 s 3

43A.43 PROGRAM MANAGEMENT.

Subd. 1. [Repealed, 1983 c 145 s 9]

Subd. 2. **Duties and powers.** The commissioner shall have the following powers and duties to:

(a) Select, in cooperation with the affected agencies, the positions within the agencies to be included in the program;

(b) Coordinate the conversion of full-time to shared positions in the affected agencies and to assist in the design of the shared positions, with attention to employee and employer needs and to the potential for replicability of the program experience throughout state government;

(c) Assist the affected agencies in recruitment, selection and hiring for the affected positions;

(d) Assist both supervisors and employees in the affected agencies in the transition to shared positions under the program and to recommend any modifications in rules, executive authority or statutes deemed desirable to effectuate the purposes of sections 43A.40 to 43A.46; and

(e) Monitor the positions selected pursuant to section 43A.41, in cooperation with the affected agencies throughout the term of the program.

History: 1983 c 145 s 4

43A.44 TOTAL COMPENSATION.

Subdivision 1. **Salaries; class.** A position selected by the commissioner pursuant to section 43A.43 shall be divided into shared positions to be paid at the rate of the appropriate shared time percent of the otherwise appropriate salary.

Subd. 2. **Benefits.** Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(a) Membership in the Minnesota state retirement system, the teachers retirement association or the state patrol retirement fund, whichever is appropriate, except that, notwithstanding any provision of section 352.01, subdivisions 11 and 16; 352B.01, subdivision 3; 354.05, subdivisions 13 and 25; or 354.091, employees

shall have allowable service for the purpose of meeting the minimum service requirements for eligibility to a retirement annuity or other retirement benefit credited in full, but shall have benefit accrual service for the purpose of computing a retirement annuity or other retirement benefit credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.

(b) Vacation and sick leave accruals shall be prorated in accordance with the pertinent collective bargaining agreement or plan covering the position;

(c) Employee dental, medical and hospital benefits coverage shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(d) Dependent life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(e) Employees in shared positions shall be entitled to the prorated holiday provisions of the applicable collective bargaining agreement or plan covering the position;

(f) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(g) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared time percent of those available to comparable full-time employees, whenever the benefits are divisible. Contributions by the employer toward the benefits, if any, shall be equal to the appropriate shared time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allocated, the appropriate shared time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

History: 1983 c 145 s 5,6

43A.45 ACCEPTANCE OF SHARED POSITIONS.

No employee holding a full-time or three-quarter time position shall be required to accept a shared position pursuant to sections 43A.40 to 43A.46.

History: 1983 c 145 s 7