

CHAPTER 43A

DEPARTMENT OF EMPLOYEE RELATIONS

43A.01	Policies.	43A.18	Total compensation; collective bargaining agreements; plans.
43A.02	Definitions.	43A.182	Repealed.
43A.04	General powers and responsibilities of commissioner.	43A.27	Eligibility for individual paid insurance and benefits.
43A.044	Hazard identification and accident prevention.	43A.30	Payment of premiums.
43A.046	Staff reductions.	43A.317	Minnesota employees insurance program.
43A.047	Contracted services.	43A.34	Retirement.
43A.05	Powers and responsibilities through the personnel bureau.	43A.36	Relationships with other agencies and jurisdictions.
43A.06	Powers and responsibilities through the labor relations bureau.	43A.375	Deduction for expenses; fraud or mistake.
43A.07	Classified service.	43A.38	Code of ethics for employees in the executive branch.
43A.08	Unclassified service.		
43A.13	Certification of eligibles.		
43A.17	Salary limits, rates, ranges and exceptions.		

43A.01 POLICIES.

[For text of subd 1, see M.S.1996]

Subd. 2. Precedence of merit principles and nondiscrimination. It is the policy of this state to provide for equal employment opportunity consistent with chapter 363 by ensuring that all personnel actions be based on the ability to perform the duties and responsibilities assigned to the position without regard to age, race, creed or religion, color, disability, sex, national origin, marital status, status with regard to public assistance, or political affiliation. It is the policy of this state to take affirmative action to eliminate the underutilization of qualified members of protected groups in the civil service, where such action is not in conflict with other provisions of this chapter or chapter 179, in order to correct imbalances and eliminate the present effects of past discrimination.

No contract executed pursuant to chapter 179A shall modify, waive or abridge this section and sections 43A.07 to 43A.13, 43A.15, and 43A.17 to 43A.21, except to the extent expressly permitted in those sections.

[For text of subd 3, see M.S.1996]

History: 1997 c 79 s 1

43A.02 DEFINITIONS.

Subdivision 1. Interpretation. Unless the language or context indicates that a different meaning is intended, the following terms, for the purposes of this chapter, have the meanings given them in this section.

[For text of subs 2 to 13, see M.S.1996]

Subd. 14. Commissioner's plan. "Commissioner's plan" means the plan required by section 3.855 regarding total compensation and terms and conditions of employment, including grievance administration, for employees of the executive branch who are not otherwise provided for in this chapter or other law.

[For text of subs 14a to 19, see M.S.1996]

Subd. 20. Eligible list. "Eligible list" means a list of candidates qualified under provisions of this chapter for employment in a specific class.

[For text of subs 21 to 29, see M.S.1996]

Subd. 30. Permanent status. "Permanent status" means the state or condition achieved by an employee in the classified service who has successfully completed an initial probation-

ary period or a probationary period required following reinstatement or reemployment, or whose probationary period is waived through specific statutory direction.

[For text of subs 31 to 36, see M.S.1996]

Subd. 37. Reemployment list. "Reemployment list" means an eligible list by class of current or former permanent or probationary employees laid off, demoted in lieu of layoff, or separated in good standing from the class, or former permanent or probationary employees of the class who are receiving disability benefits under a state retirement plan and whose written applications for consideration for reemployment in the class have been approved by the commissioner.

[For text of subs 38 to 40, see M.S.1996]

History: 1997 c 79 s 2-6

43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER.

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

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

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

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

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of this chapter, and may order any remedial actions consistent with law. The commissioner, at the request of an agency, shall provide assistance in employee misconduct investigations. The commissioner shall have the right to assess from the requesting agency, any costs incurred while assisting the agency in the employee misconduct investigation. Money received by the commissioner under this paragraph is appropriated to the commissioner for purposes of this paragraph.

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

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

[For text of subd 1a, see M.S.1996]

Subd. 2. Executive direction. The commissioner shall direct all departmental services, appoint employees and may enter into contracts to carry out the provisions of this chapter.

Subd. 3. Rules. The commissioner shall adopt rules under the Administrative Procedure Act to implement the provisions of this chapter that directly affect the rights of or processes available to the general public. The rules have the force and effect of law and may include but are not limited to:

(1) the processes for determining the extent of competition for filling vacancies, for recruiting applicants, for conducting competitive open examinations, for ranking candidates and maintaining competitive open eligible lists, and for certification and appointment of eligibles from competitive open eligible lists;

(2) the process for effecting noncompetitive and qualifying appointments;

(3) the process for temporary designation of positions in the unclassified service and for effecting appointments to the unclassified service;

(4) a statewide affirmative action program to include requirements for agency affirmative action plans, statewide policies and procedures, reporting requirements, accountability and responsibility of employees in the executive branch, and overall objectives of the program;

(5) conditions under which moving and other expenses may be authorized and paid prior to appointment to persons who have accepted state employment;

(6) procedures for administration of the code of ethics for employees of the executive branch;

(7) examination procedures for candidates with disabilities as described in section 43A.15, subdivision 14; and

(8) procedures or policies that affect the operation of or participation in the public employees insurance program.

[For text of subs 4 to 8, see M.S.1996]

Subd. 9. Experimental or research projects. The commissioner of employee relations may conduct experimental or research projects designed to improve recruitment, selection, referral, or appointment processes for the filling of state classified positions.

The commissioner shall meet and confer with the affected exclusive bargaining representative of state employees concerning the design and implementation of experimental and research projects under this subdivision.

Any provision in sections 43A.09 to 43A.15, associated personnel rules adopted under subdivision 3, or administrative procedures established under subdivision 4, is waived for the purposes of these projects. The number of appointments under this subdivision may not exceed five percent of the total number of appointments in the preceding fiscal year.

The commissioner shall report by September 1 to the joint subcommittee on employee relations the results of the experimental research projects conducted in the preceding fiscal year.

[For text of subs 10 and 11, see M.S.1996]

History: 1997 c 79 s 7-10; 1997 c 97 s 4

43A.044 HAZARD IDENTIFICATION AND ACCIDENT PREVENTION.

(a) The commissioner of the department of employee relations must operate a program of occupational hazard identification and accident prevention for state agencies and state employees, and shall provide the staff, equipment, and facilities needed for the program. The program must be offered to all state agencies through the agency safety contact or other designee; is consultative in nature; and must assist state agencies with the goal of providing a safe work environment, safe work methods, and hazard identification.

(b) The commissioner must cooperate with the department of labor and industry, department of health, and department of administration as well as other private and public community agencies to assist in the objective of hazard identification and accident prevention.

History: 1997 c 97 s 5

43A.046 STAFF REDUCTIONS.

In order to maximize delivery of services to the public, if layoffs of state employees are necessary, each agency with more than 50 full-time equivalent employees must reduce at least the same percentage of management and supervisory personnel as line and support personnel.

History: 1997 c 202 art 2 s 31

43A.047 CONTRACTED SERVICES.

(a) Executive agencies, including the Minnesota state colleges and universities system, must demonstrate that they cannot use available staff before hiring outside consultants or services. If use of consultants is necessary, agencies are encouraged to negotiate contracts that will involve permanent staff, so as to upgrade and maximize training of state employees.

(b) If agencies reduce operating budgets, agencies must give priority to reducing spending on professional and technical service contracts before laying off permanent employees.

(c) Agencies must report to the senate finance and house ways and means committees by August 1 each year on implementation of this section during the previous fiscal year. The reports must include amounts spent on professional and technical service contracts during the previous fiscal year.

History: 1997 c 202 art 2 s 32

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

Subdivision 1. **General.** The commissioner through the personnel bureau shall perform the duties assigned in this chapter. The deputy for the personnel bureau shall perform any duties delegated by the commissioner.

The commissioner's authority and responsibility shall include but not be limited to maintenance of a classification plan, assignment of all positions in the classified service to job classes, maintenance and approval of total compensation plans for all positions in the executive branch pursuant to the provisions of section 43A.18 and other provisions of law; preparation of examinations, rating of candidates for employment and preparation of eligible lists; maintenance of employee performance appraisal, training and affirmative action programs; and maintenance and publication of logical career paths in the classified civil service.

[For text of subd 2, see M.S.1996]

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

[For text of subds 4 to 7, see M.S.1996]

History: 1997 c 79 s 11,12

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

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

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

(c) The board of trustees of the Minnesota state colleges and universities may exercise the powers under this section for employees included in units 9, 10, 11, and 12 in section 179A.10, subdivision 2, except with respect to sections 43A.22 to 43A.31, which shall continue to be the responsibility of the commissioner. The commissioner of employee relations shall have the right to review and comment to the Minnesota state colleges and universities on the board's final proposals prior to exchange of final positions with the designated bargaining units as well as any requests for interest arbitration. When submitting a proposed collective bargaining agreement to the legislative coordinating commission and the legislature under section 3.855, subdivision 2, the board of trustees must use procedures and assumptions consistent with those used by the commissioner of employee relations in calculating the costs of the proposed contract. The legislative coordinating commission must, when considering a collective bargaining agreement or arbitration award submitted by the board of trustees, evaluate market conditions affecting the employees in the bargaining unit, equity with other bargaining units in the executive branch, and the ability of the trustees and the state to fund the agreement or award.

[For text of subds 2 to 8, see M.S.1996]

History: 1997 c 156 s 2

43A.07 CLASSIFIED SERVICE.

[For text of subs 1 to 4, see M.S.1996]

Subd. 5. Leaves to accept unclassified appointments. An employee may be granted a leave of absence from a position in the classified service to accept a position in the unclassified service. Upon request, during the unclassified appointment or within 60 days of the end of the unclassified appointment, the employee shall be reappointed in the agency from which the employee was granted the leave, to a classified position comparable to that held immediately prior to being appointed to the unclassified position.

[For text of subd 6, see M.S.1996]

History: 1997 c 97 s 6

43A.08 UNCLASSIFIED SERVICE.

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

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the office of strategic and long-range planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the Lola and Rudy Perpich Minnesota Center for Arts Education and the Minnesota state colleges and universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;
- (10) officers and enlisted persons in the national guard;
- (11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;
- (12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;
- (13) members of the state patrol; provided that selection and appointment of state patrol troopers must be made in accordance with applicable laws governing the classified service;
- (14) chaplains employed by the state;
- (15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;
- (16) student workers;

- (17) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;
- (18) employees unclassified pursuant to other statutory authority;
- (19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; and
- (20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

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

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

- (1) the designation of the position would not be contrary to other law relating specifically to that agency;
- (2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;
- (3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;
- (4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;
- (5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;
- (6) the position would be at the level of division or bureau director or assistant to the agency head; and
- (7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

[For text of subs 1b to 4, see M.S.1996]

History: 1997 c 79 s 13,14

43A.13 CERTIFICATION OF ELIGIBLES.

[For text of subs 1 to 6, see M.S.1996]

Subd. 7. **Expanded certification.** When the commissioner determines that a disparity as defined in rules exists between an agency's work force and its affirmative action plan approved in accordance with section 43A.19, the commissioner shall ensure to the extent possible that eligibles who are members of the protected groups for which the disparity exists are certified for appointment. When fewer than two eligibles of each protected group for which a disparity has been determined to exist would be certified under subdivisions 4 and 5, the commissioner shall certify two eligibles from each protected group for which a disparity exists or four from each group for which a disparity exists if the number of names referred has been increased under subdivision 4, paragraph (b). Implementation of this subdivision may not be deemed a violation of other provisions of this chapter or chapter 363.

[For text of subs 8 and 9, see M.S.1996]

History: 1997 c 79 s 15

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

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

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

[For text of subd 2, see M.S.1996]

Subd. 3. **Unusual employment situations.** Upon the request of the appointing authority, and when the commissioner determines that changes in employment situations create difficulties in attracting or retaining employees, the commissioner may approve an unusual employment situation increase to advance an employee within the compensation plan. The action must be consistent with applicable provisions of collective bargaining agreements or plans adopted under section 43A.18. The commissioner shall review each proposal giving due consideration to salary rates paid to other employees in the same class and agency and may approve any request which in the commissioner's judgment is in the best interest of the state. If the commissioner determines that the position requires special expertise necessitating a higher salary to attract or retain qualified persons, the commissioner may grant an exemption not to exceed 120 percent of the salary of the head of the agency or the maximum rate established for the position, whichever is less.

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

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified information systems staff.

[For text of subs 5 to 12, see M.S.1996]

History: 1997 c 202 art 2 s 33; 2Sp1997 c 3 s 9,10

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

[For text of subs 1 and 2, see M.S.1996]

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

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

establishing compensation and terms and conditions of employment must be reviewed and approved or modified by the legislative coordinating commission and the legislature under section 3.855, subdivisions 2 and 3.

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

(d) The management compensation plan must provide methods and levels of compensation for managers that will be generally comparable to those applicable to managers in other public and private employment. The plan must ensure that compensation within assigned salary ranges is related to level of performance. The plan must also provide a procedure for establishment of a salary rate for a newly created position and a new appointee to an existing position and for progression through assigned salary ranges. The employee benefits established under the provisions of the managerial plan may be extended to agency heads whose salaries are established in section 15A.0815 and to constitutional officers, judges of the workers' compensation court of appeals, and tax court judges.

[For text of subd 3a, see M.S.1996]

Subd. 4. Plans not established but approved by commissioner. (a) Notwithstanding any other law to the contrary, terms and conditions of employment for employees listed in this subdivision must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. Compensation plans established under paragraph (c) must be reviewed and approved, modified, or rejected by the legislature and the legislative coordinating commission under section 3.855, subdivisions 2 and 3, before becoming effective.

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

(c) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education services office must be determined by the higher education services office.

[For text of subd 4a, see M.S.1996]

Subd. 5. Appointing authorities to recommend certain salaries. (a) The governor, or other appropriate appointing authority, may submit to the legislative coordinating commission recommendations for salaries within the salary limits for the positions listed in section 15A.0815, subdivisions 2 to 4. An appointing authority may also propose additions or deletions of positions from those listed.

(b) Before submitting the recommendations, the appointing authority shall consult with the commissioner of administration, the commissioner of finance, and the commissioner of employee relations concerning the recommendations.

(c) In making recommendations, the appointing authority shall consider the criteria established in subdivision 8 and the performance of individual incumbents. The performance evaluation must include a review of an incumbent's progress toward attainment of affirmative action goals. The appointing authority shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities, and accountabilities and in determining recommendations rate each position by this system.

(d) Before the appointing authority's recommended salaries take effect, the recommendations must be reviewed and approved, rejected, or modified by the legislative coordinating commission and the legislature under section 3.855, subdivisions 2 and 3. If, when the legislature is not in session, the commission fails to reject or modify salary recommendations of the governor within 30 calendar days of their receipt, the recommendations are deemed to be approved.

(e) The appointing authority shall set the initial salary of a head of a new agency or a chair of a new metropolitan board or commission whose salary is not specifically prescribed by law after consultation with the commissioner, whose recommendation is advisory only.

The amount of the new salary must be comparable to the salary of an agency head or commission chair having similar duties and responsibilities.

(f) The salary of a newly appointed head of an agency or chair of a metropolitan agency listed in section 15A.0815, subdivisions 2 to 4, may be increased or decreased by the appointing authority from the salary previously set for that position within 30 days of the new appointment after consultation with the commissioner. If the appointing authority increases a salary under this paragraph, the appointing authority shall submit the new salary to the legislative coordinating commission and the full legislature for approval, modification, or rejection under section 3.855, subdivisions 2 and 3. If, when the legislature is not in session, the commission fails to reject or modify salary recommendations of the governor within 30 calendar days of their receipt, the recommendations are deemed to be approved.

[For text of subs 6 to 8, see M.S.1996]

History: 2Sp1997 c 3 s 11,12,18

43A.182 [Repealed, 1997 c 97 s 20]

NOTE: This section was also amended by Laws 1997, chapter 187, article 1, section 4, to read as follows:

"43A.182 Payment of salary differential for reserve forces on active duty.

Each agency head shall pay to each eligible member of the reserve components of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active state employee, including any adjustments the member would have received if not on leave of absence. This payment may be made only to a person whose basic active duty military salary is less than the salary the person would be paid as an active state employee. Payments must be made at the intervals at which the member received pay as a state employee. Back pay authorized by this section may be paid in a lump sum. Such pay shall not extend beyond four years from the date the employee was called to active duty plus such additional time in each case as such employee may be required to serve pursuant to law.

An eligible member of the reserve components of the armed forces of the United States is a reservist or National Guard member who was an employee of the state of Minnesota at the time the member was called to active duty and who was or is called to active duty after August 1, 1990, because of Operation Desert Shield, Operation Desert Storm, or any other action taken by the armed forces relating to hostilities between the United States and the Republic of Iraq.

For the purposes of this section, an employee of the state is an employee of the executive, judicial, or legislative branches of state government or an employee of the Minnesota state retirement system, the public employee retirement association, or the teachers retirement association.

The commissioner of employee relations and the commissioner of finance shall adopt procedures required to implement this section."

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

Subdivision 1. **General.** Notwithstanding any other provisions of this chapter, the persons listed in subdivisions 2 and 3, and their dependents, may elect to enroll at their own expense in the appropriate life insurance, hospital, medical and dental benefits, and optional coverages at the time, in the manner, and under conditions of eligibility the commissioner prescribes and otherwise approves. The commissioner may also provide for payroll deductions to be made in the same manner and under the same conditions as provided in section 43A.30, subdivision 2 authorizing payroll deductions for an eligible employee and the employee's dependents.

[For text of subd 2, see M.S.1996]

Subd. 3. **Retired employees.** A person may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages if the person is:

(1) a retired employee of the state or an organization listed in subdivision 2 or section 43A.24, subdivision 2, who, at separation of service:

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

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

(2) a retired employee of the state who is at least 50 years of age and has at least 15 years of state service.

The commissioner shall offer at least one plan which is actuarially equivalent to those made available through collective bargaining agreements or plans established pursuant to

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

[For text of subs 4 and 5, see M.S.1996]

History: 1997 c 79 s 16; 1997 c 97 s 7

43A.30 PAYMENT OF PREMIUMS.

Subdivision 1. Payments from agency revenues. Each agency shall pay the amounts due for state paid life insurance and hospital, medical and dental benefits coverage authorized for eligible employees pursuant to this chapter.

Each agency shall pay the amounts from accounts and funds from which the agency receives its revenues, including appropriations from the general 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 salaries. In order to enable the commissioner of finance to maintain proper records covering the appropriations pursuant to this section, the commissioner of finance may require certifications in connection with payments as the commissioner of finance deems necessary from the Minnesota historical society, the University of Minnesota, or any agency whose employees receive benefits pursuant to this chapter. The accounts and funds from which agencies receive appropriations under the terms of this section are a source of revenue for the purposes of any other law or statutory enactment.

[For text of subd 2, see M.S.1996]

Subd. 4. Employee insurance trust fund. The commissioner of employee relations may direct that all or a part of the amounts paid for life insurance, hospital, medical, and dental benefits, and optional coverages authorized for eligible employees and other eligible persons be deposited by the state in an employee insurance trust fund in the state treasury, from which the approved claims of eligibles are to be paid. Investment income and investment losses attributable to the investment of the fund shall be credited to the fund. There is appropriated from the fund to the commissioner amounts needed to pay the approved claims of eligibles, related service charges, insurance premiums, and refunds. The commissioner shall not market or self-insure life insurance. The commissioner may market and self-insure dental and optional coverages. Nothing in this subdivision precludes the commissioner from determining plan design, providing informational materials, or communicating with employees about coverages.

Subd. 5. Administration. The commissioner of employee relations may administer the employee insurance program. The commissioner may assess agencies, and employers of persons eligible for state-paid insurance and benefits under section 43A.24, the cost of these administrative services and include it in the amounts billed for life insurance, hospital, medical, and dental benefits, and optional coverages authorized. Receipts from the assessments must be deposited in the state treasury and credited to a special account in the employee insurance trust fund and are appropriated to the commissioner to pay these administrative costs.

History: 1997 c 79 s 17; 1997 c 97 s 8,9

43A.317 MINNESOTA EMPLOYEES INSURANCE PROGRAM.

[For text of subs 1 to 10, see M.S.1996]

Subd. 12. **Status of agents.** Notwithstanding sections 60K.03, subdivision 5, and 72A.07, the program may use, and pay referral fees, commissions, or other compensation to, agents licensed as life and health agents under chapter 60K or licensed under section 62C.17, regardless of whether the agents are appointed to represent the particular health carriers or community integrated service networks that provide the coverage available through the program. When acting under this subdivision, an agent is not an agent of the health carrier or community integrated service network, with respect to that transaction.

History: 1997 c 225 art 2 s 62

43A.34 RETIREMENT.

[For text of subs 1 and 3, see M.S.1996]

Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the state patrol retirement fund by reason of their employment, and members of the Minnesota state patrol division and alcohol and gambling enforcement division of the department of public safety who are members of the state patrol retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section 352B.01, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the state patrol retirement fund by reason of their employment before July 1, 1973, shall not continue employment after attaining the age of 70 years.

History: 1997 c 129 art 2 s 2

43A.36 RELATIONSHIPS WITH OTHER AGENCIES AND JURISDICTIONS.

Subdivision 1. **Cooperation; state agencies.** The commissioner may delegate administrative functions associated with the duties of the commissioner to appointing authorities who have the capability to perform such functions when the commissioner determines that it is in the best interests of the state civil service. The commissioner shall consult with agencies and agencies shall cooperate as appropriate in implementation of this chapter.

The commissioner, in conjunction with appointing authorities, shall analyze and assess current and future human resource requirements of the civil service and coordinate personnel actions throughout the civil service to meet the requirements. The commissioner shall permit appointing authorities to use eligible lists in making appointments to positions in the unclassified service and shall provide recruiting assistance.

The head of each agency in the executive branch shall designate an agency personnel officer. The agency personnel officer shall be accountable to the agency head for all personnel functions prescribed by laws, rules, collective bargaining agreements, the commissioner and the agency head. Except when otherwise prescribed by the agency head in a specific instance, the personnel officer shall be assumed to be the authority accountable to the agency head over any other officer or employee in the agency for personnel functions.

The head of each agency in the executive branch shall designate an affirmative action officer who shall have primary responsibility for the administration of the agency's affirmative action plan. The officer shall report directly to the head of the agency on affirmative action matters.

Subd. 2. **Services available to political subdivisions.** The services and facilities of the department and its staff may be made available upon request to political subdivisions of the state. Enforcement and administration of other provisions of this chapter shall take precedence over the provision of the services and facilities. Political subdivisions shall reimburse the state for the reasonable cost of services and facilities.

[For text of subd 3, see M.S.1996]

History: 1997 c 79 s 18,19

43A.375 DEDUCTION FOR EXPENSES; FRAUD OR MISTAKE.

If expenses are reimbursed to an employee by the employer under circumstances of fraud or mistake, the expenses may be deducted from wages earned by or due the employee.

History: 1997 c 97 s 10

43A.38 CODE OF ETHICS FOR EMPLOYEES IN THE EXECUTIVE BRANCH.

[For text of subs 1 to 3, see M.S.1996]

Subd. 4. Use of state property. (a) An employee shall not use or allow the use of state time, supplies or state-owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law.

(b) An employee may use state time, property, or equipment to communicate electronically with other persons including, but not limited to, elected officials, the employer, or an exclusive bargaining representative under chapter 179A, provided this use, including the value of the time spent, results in no incremental cost to the state or results in an incremental cost that is so small as to make accounting for it unreasonable or administratively impracticable.

(c) The commissioners of administration and employee relations shall issue a statewide policy on the use of electronic mail and other forms of electronic communications by executive branch state employees. The policy is not subject to the provisions of chapter 14 or 179A. Appointing authorities in the legislative and judicial branches shall issue policies on these issues for their employees. The policies shall permit state employees to make reasonable use of state time, property, and equipment for personal communications and shall address issues of privacy, content of communications, and the definition of reasonable use as well as other issues the commissioners and appointing authorities identify as necessary and relevant.

[For text of subs 5 to 9, see M.S.1996]

History: 1997 c 202 art 2 s 34