

Effective 7/1/2015

67-19-12 State pay plans -- Applicability of section -- Exemptions -- Duties of the executive director.

- (1)
 - (a) This section, and the rules adopted by the department to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).
 - (b) If not exempted under Subsection (2), an employee is considered to be in classified service.
- (2) The following employees are exempt from this section:
 - (a) members of the Legislature and legislative employees;
 - (b) members of the judiciary and judicial employees;
 - (c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 67-19-15(1)(c);
 - (d) employees of the State Board of Education who are licensed by the State Board of Education;
 - (e) officers, faculty, and other employees of state institutions of higher education;
 - (f) employees in a position that is specified by statute to be exempt from this Subsection (2);
 - (g) employees in the Office of the Attorney General;
 - (h) department heads and other persons appointed by the governor under statute;
 - (i) schedule AS employees as provided under Subsection 67-19-15(1)(l);
 - (j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 67-19-15(1)(d);
 - (k) employees that determine and execute policy designated as schedule AR as provided under Subsection 67-19-15(1)(k);
 - (l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 67-19-15(1)(f);
 - (m) temporary employees described in Subsection 67-19-15(1)(p);
 - (n) patients and inmates designated as schedule AU as provided under Subsection 67-19-15(1)(n) who are employed by state institutions; and
 - (o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 67-19-15(1)(j).
- (3)
 - (a) The executive director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.
 - (b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.
 - (c) The executive director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.
 - (d)
 - (i) The department shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.
 - (ii) The executive director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.
- (4)
 - (a) With the approval of the governor, the executive director shall develop and adopt pay plans for each position in classified service.

- (b) The executive director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.
 - (c) The executive director shall adhere to the following in developing each pay plan:
 - (i) Each pay plan shall consist of sufficient salary ranges to:
 - (A) permit adequate salary differential among the various classes of positions in the classification plan; and
 - (B) reflect the normal growth and productivity potential of employees in that class.
 - (ii) The executive director shall issue rules for the administration of pay plans.
 - (d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures, or otherwise.
 - (e) The executive director shall issue rules providing for:
 - (i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;
 - (ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and
 - (iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.
 - (f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.
- (5)
- (a) By October 31 of each year, the executive director shall submit an annual compensation plan to the governor for consideration in the executive budget.
 - (b) The plan described in Subsection (5)(a) may include recommendations, including:
 - (i) salary increases that generally affect employees, including a general increase or merit increase;
 - (ii) salary increases that address compensation issues unique to an agency or occupation;
 - (iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or
 - (iv) changes to employee benefits.
 - (c)
 - (i)
 - (A) Subject to Subsection (5)(c)(i)(B) or (C), the executive director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.
 - (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.
 - (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.
 - (ii) The executive director may cooperate with or participate in any survey conducted by other public and private employers.
 - (iii) The executive director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include

employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

- (iv) The department shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.
 - (d) The executive director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.
 - (e) The executive director shall:
 - (i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and
 - (ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.
 - (f)
 - (i) Upon request and subject to Subsection (5)(f)(ii), the department shall make available foundational information used by the department or director in the drafting of a plan described in Subsection (5)(a), including:
 - (A) demographic and labor market information;
 - (B) information on employee turnover;
 - (C) salary information;
 - (D) information on recruitment; and
 - (E) geographic data.
 - (ii) The department may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.
 - (g) The governor shall:
 - (i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;
 - (ii) submit compensation recommendations to the Legislature; and
 - (iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.
 - (h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.
- (6)
- (a) The executive director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.
 - (b) An agency may not grant a market-based award unless the award is previously approved by the department.
 - (c) In accordance with Subsection (6)(b), an agency requesting the department's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the department.
 - (d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the department:
 - (i) any benefit the market-based award would provide for the agency, including:
 - (A) budgetary advantages; or
 - (B) recruitment advantages;
 - (ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7)

- (a) The executive director shall regularly evaluate the total compensation program of state employees in the classified service.
- (b) The department shall determine if employee benefits are comparable to those offered by other private and public employers using information from:
 - (i) a study conducted by a third-party consultant; or
 - (ii) the most recent edition of a nationally recognized benefits survey.

Amended by Chapter 155, 2015 General Session