

## Overview

Members of the Minnesota House of Representatives serve part-time as legislators, and therefore typically have outside employment. Statutory protections for legislators' outside employment vary depending on whether the employment is in the private or public sector, though some protections apply to both the public and private sector. This publication provides an overview of the various protections provided to legislators' outside employment.

## Private Employment

A legislator who works for a private employer has the right to be continued in the legislator's position while serving in the legislature or restored to the position or to a "position of like seniority, status, and pay" after the legislative session ends.<sup>1</sup> The protection applies when:

- the legislator held the position at the beginning of service in a legislative session;
- the position was not temporary; and
- the legislator applies for reemployment no later than 30 days after the last legislative day in each calendar year.

Once the legislator has returned or been reinstated to the position, the legislator retains his or her seniority and may participate in insurance or other benefits offered by the employer. The employer may not reduce the legislator's retirement benefits under an employer-sponsored pension or retirement plan because of time spent in legislative service.<sup>2</sup>

A private employer may not discharge a legislator after reinstatement without "good cause" from the position for three years after the continuation or restoration. A legislator may be discharged during these three years based on reverse order of seniority with the employer within the field of the legislator's training and experience.<sup>3</sup>

A legislator may bring suit in district court to enforce these protections against a private employer.<sup>4</sup> If the court finds that the private employer's action was unlawful, the employer may be liable for loss of wages or benefits the legislator suffers as a result of the unlawful action.

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<sup>1</sup> [Minn. Stat. § 3.082](#).

<sup>2</sup> [Minn. Stat. § 3.083](#), subd. 1.

<sup>3</sup> [Minn. Stat. § 3.083](#), subd. 1.

<sup>4</sup> [Minn. Stat. § 3.087](#).

# Public Employment

## Executive Branch

A legislator who works for the state executive branch in the classified or unclassified service must take a leave of absence when the legislature is in session.<sup>5</sup>

In 2026, the legislature enacted two changes affecting legislators serving in the executive branch, both effective July 1, 2027. First, a legislator who takes a leave of absence from executive branch employment will have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, insurance benefits, sick leave, and other benefits as if the legislator had not taken the leave. The period of mandatory legislative leave must not be subtracted when determining the legislator's length of service as an executive branch employee. Second, a legislator who works for the executive branch will have the same protections with regard to pension and retirement rights as if the legislator were employed by another public entity.<sup>6</sup> Those rights are discussed below.

## Other Public Employment

Legislators who work for the following public entities are entitled to the employment protections discussed in this section<sup>7</sup>:

- A political subdivision
- A municipal corporation
- A school district
- An institution of learning maintained by the state

A legislator who works for one of these entities is entitled to a leave of absence without pay when on legislative business. These protections do not apply if the legislator's position is incompatible with the office of legislator or if the legislator chooses to take leave provided by other law.<sup>8</sup>

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<sup>5</sup> [Minn. Stat. § 43A.32](#), subds. 2 (classified service), and 3 (unclassified service). Most state employees are in the classified service; employees in the classified service are hired through a competitive process and can be dismissed only for just cause. [Minn. Stat. § 43A.33](#). Employees in the unclassified service include heads of departments, bureaus, divisions, and institutions established by law. See [Minnesota Statutes, section 43A.08](#).

<sup>6</sup> [Minn. Stat. § 43A.32](#), subd. 4; [Laws 2026, ch. 92](#), art. 2, § 2. Until these protections go into effect on July 1, 2027, a legislator working for the executive branch does not have statutory protections comparable to those that apply in other public sector employment. However, a collective bargaining agreement may include relevant terms, such as terms that govern vacation accrual rates while the employee is on a leave.

<sup>7</sup> These protections also apply to persons elected to full-time city or county office or to an Indian tribal council in Minnesota.

<sup>8</sup> [Minn. Stat. § 3.088](#). Legislators may not hold any other federal or state public office except postmaster or notary public. [Minn. Const. art. IV](#), section 5. For example, a legislator may not simultaneously serve as mayor of a city.

## Reinstatement

After the last legislative day in each calendar year, a legislator must be reinstated to the legislator's public position held at the time of entry into the legislature, or be placed in a "public position of like seniority, status, and pay if it is available at the same salary which would have been received if the leave had not been taken" as long as:

- the position has not been abolished or if it is a limited term position, the term has not expired;
- the legislator applies for reinstatement in writing within 30 days after the last legislative day in a calendar year; and
- the request for reinstatement is made no later than ten years after the granting of the leave.

## Seniority, Benefits, Pension, and Retirement Rights

Once reinstated, a legislator has the same rights as other employees with respect to accrued and future seniority status, efficiency rating, vacation, insurance, benefits, sick leave, and other benefits as if the legislator had been actually employed during the time of the leave.<sup>9</sup> A public employer is not required to compensate a reinstated employee for time spent away from work for the employer and on legislative business during session.

Legislators retain all public pension and retirement rights accrued before taking leave.<sup>10</sup> The legislator's time spent working as a member of the legislature must be calculated as if the legislator still worked for the public employer when determining the time at which the legislator's pension or retirement rights vest. Receipt of a legislative pension or retirement benefit does not disqualify a person from receiving a public pension or retirement benefit.<sup>11</sup>

## Discharge

A public employer may not discharge a legislator after reinstatement for one year except for "good cause" and after notice and hearing; this limitation does not apply to a term of service limited by law.<sup>12</sup> A 1991 Attorney General's opinion found that "cause" in this context "must generally be one that makes the person unfit to continue to hold the office."<sup>13</sup> The cause must concern the legislator's qualifications or performance; budget reductions alone do not justify a removal, discharge, or pretextual abolition of a legislator's position.

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<sup>9</sup> [Minn. Stat. § 3.088](#), subd. 2.

<sup>10</sup> [Minn. Stat. § 3.088](#), subd. 3.

<sup>11</sup> [Minn. Stat. § 3.088](#), subd. 6.

<sup>12</sup> [Minn. Stat. § 3.088](#), subd. 2.

<sup>13</sup> Minn. Op. Atty. Gen. 280L-1 (1991).

## Additional Protections

Legislators in both the public and private sector are entitled to two additional protections.<sup>14</sup>

First, an employer or employee organization may not discriminate against an employee who is a legislator for statements made or beliefs held by an employee in the employee's capacity as a legislator. This protection applies to private employers, public employers, unions, and other employee organizations.<sup>15</sup>

Second, employers must give legislators time off from regular employment to attend meetings required of the legislator's public office. The employer and legislator may agree that this time off is without pay or with pay. If the legislator takes time off without pay, the employer must "make an effort to allow the legislator to make up the time with other hours when the legislator is available." The employer may not retaliate against the legislator for absences to attend necessary meetings for the legislator's public office.<sup>16</sup>



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<sup>14</sup> A collective bargaining agreement or individual employment contract may provide additional protections not described here.

<sup>15</sup> [Minn. Stat. § 3.083](#), subd. 2.

<sup>16</sup> [Minn. Stat. § 211B.10](#), subd. 2.