§ 163. Eligibility for benefits. 1. All persons in the service of the state, whether elected, appointed or employed, who elect to participate in such health benefit plan shall be eligible to participate therein, provided, however, that the president may adopt such regulations as he or she may deem appropriate excluding temporary, part time or intermittent employment.

2. The contract or contracts shall provide for health benefits for retired employees of the state and of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, and their spouses and dependent children as defined by the regulations of the president, on such terms as the president may deem appropriate, and the president may authorize the inclusion in the plan of the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other appropriate agencies, subdivisions or quasi-public organizations of the state, including active members of volunteer fire and volunteer ambulance companies serving one or more municipal corporations pursuant to subdivision seven of section ninety-two-a of the general municipal law, and their spouses and dependent children as defined by the regulations of the president. Notwithstanding any law or regulation to the contrary, active members of volunteer ambulance companies serving one or more municipal corporations pursuant to subdivision seven of section ninety-two-a of the general municipal law shall be eligible for health benefits regardless of the amount of funds derived from public sources. Any such corporation, district, agency or organization electing to participate in the plan shall be required to pay its proportionate share of the expenses of administration of the

plan in such amounts and at such times as determined and fixed by the president. All amounts payable for such expenses of administration shall be paid to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for such purposes. Neither the state nor any other participant in the plan shall be charged with the particular experience attributable to the employees of the participant, and all dividends or retroactive rate credits shall be distributed pro-rata based upon the number of employees of such participant covered by the plan.

3. The president shall adopt regulations prescribing the conditions under which an employee or retired employee may elect to participate in or withdraw from the plan. Such regulations may also prescribe conditions under which an employee whose service terminates and who is entitled to a vested retirement allowance may continue to participate in the plan; such condition shall include a requirement that such person pay the full cost of such coverage following termination of his employment and prior to commencement of the payment of his retirement allowance, unless such person becomes currently entitled to, but defers receipt of, a retirement allowance or pension from a retirement or pension plan or system administered and operated by the state of New York, or a civil division thereof, including the New York state teachers' retirement system and the optional retirement programs established under article three, part V, and article eight-B of the education law.

4. Any public authority, public benefit corporation, school district, special district, district corporation, municipal corporation, or other agency, subdivision or quasi-public organization of the state, whose employees and retired employees are authorized to be included in the plan as provided by subdivision two, may elect to participate in such plan. Any such election shall be exercised by the adoption of a resolution by its governing body and, in the case of any municipal corporation where a resolution of its governing body is required by law to be approved by any other body or officer, such resolution shall also be approved by such other body or officer. Any such election may be made with respect to inclusion in the plan of both its employees and its

retired employees at the same time, or may be made only with respect to its employees alone and at another time with respect to its retired employees. Any such authority, corporation, district, agency, subdivision or organization making such election shall become a participating employer under such plan, subject to and in accordance with the regulations of the president relating thereto.

5. The chief fiscal officer of any such participating employer shall be authorized to deduct from the wages or salary paid to its employees who are participants in such health benefit plan the sums required to be paid by them under such plan. Each such participating employer is authorized to appropriate such sums as are required to be paid by it as its share in connection with the operation of such plan.

6. The president shall have power and authority to make such inspection of the employment and payroll records of any participating employer concerning any of its employees who are participants in the health insurance fund as he may deem necessary.

7. For purposes of eligibility for participation in the health benefit plan no person shall be deemed to be a state officer or employee or to be in the service of the state unless his salary or compensation is paid directly by the state, and no person shall be deemed to be a retired officer or employee of the state unless his salary or compensation immediately preceding his retirement was paid directly by the state; provided, however, that all active and retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall be eligible for participation in the health benefit plan whether or not their salaries are paid or before retirement were paid directly by the state.

8. Notwithstanding any other law, rule or regulation to the contrary, where the state and an employee organization representing state officers and employees who are in positions which are in the collective

negotiating unit established by chapter four hundred three of the laws of nineteen hundred eighty-three enter into a collectively negotiated agreement pursuant to article fourteen of this chapter providing that officers and employees who hold positions in such unit on or after April first, nineteen hundred eighty-four and who immediately upon termination from such position are eligible to receive a retirement benefit from either the New York state or New York city retirement systems shall continue to be eligible to participate in the employee benefit fund established by section two hundred six-a of the state finance law, such officers and employees upon retirement shall continue to participate in and receive the benefits of such fund as provided in such collectively negotiated agreement and shall not be eligible to receive and shall not receive from the statewide health benefit plan established pursuant to this article coverage for benefits covered by such employee benefit fund.