

(e) Section 65 is effective June 30, 1995, and applies to appropriations to the legislature, the senate, the house of representatives, or a legislative commission or committee that are unexpended and unencumbered on June 30, 1995.

Presented to the governor May 11, 1993

Signed by the governor May 14, 1993, 1:30 p.m.

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## CHAPTER 193—S.F.No. 1613

### VETOED

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## CHAPTER 194—S.F.No. 1413

*An act relating to workers' compensation; excluding certain wages in determining insurance premiums; modifying provisions relating to charges by certain nursing homes; providing for exemption from certain registration requirements; providing for guardians or conservators in certain cases; amending Minnesota Statutes 1992, sections 79.211, subdivision 1; 79.255, by adding a subdivision; 176.091; 176.111, subdivision 5; 176.136, subdivision 1b; and 176.521, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 176; and 525.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 79.211, subdivision 1, is amended to read:

Subdivision 1. **CERTAIN WAGES EXCLUDED FOR RATEMAKING.** The rating association or an insurer shall not include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium.

An insurer, including the assigned risk plan, shall not include wages paid for work performed in an adjacent state in the determination of a workers' compensation premium if the employer paid a workers' compensation insurance premium to the exclusive state fund of the adjacent state on the wages earned in the adjacent state.

Sec. 2. Minnesota Statutes 1992, section 79.255, is amended by adding a subdivision to read:

Subd. 9. EXEMPTION. A corporation, partnership, sole proprietorship, or other business entity that provides personnel supply arrangements or agreements for the purpose of temporarily supporting or supplementing a client's work force

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in work situations, such as employee absences, temporary skill shortages, seasonal workloads, and specific functions and projects, may be exempt from the registration requirements of this section, provided that the arrangements or agreements do not involve the lease-back of the client's employees.

To qualify for an exemption, an applicant must obtain a certificate of exemption from registration from the commissioner. A certificate of exemption shall be issued upon the applicant's filing of a letter with the commissioner stating that the applicant meets all of the requirements for obtaining an exemption. If a corporation, partnership, sole proprietorship, or other business entity operating under the exemption subsequently fails to meet the requirements for the exemption, the corporation, partnership, sole proprietorship, or other business entity must immediately surrender the exemption certificate and register with the commissioner.

Sec. 3. Minnesota Statutes 1992, section 176.091, is amended to read:

**176.091 MINOR EMPLOYEES.**

Except as provided in section 176.092, a minor employee has the same power to enter into a contract, make election of remedy, make any settlement, and receive compensation as an adult employee; subject to the power of the commissioner of the department of labor and industry, compensation judge, or workers' compensation court of appeals to require the appointment of a guardian for the minor employee to make such settlement and to receive moneys thereunder or under an award.

**Sec. 4. [176.092] GUARDIAN; CONSERVATOR.**

Subdivision 1. WHEN REQUIRED. An injured employee or a dependent under section 176.111 who is a minor or an incapacitated person as that term is defined in section 525.54, subdivision 2 or 3, shall have a guardian or conservator to represent the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter. This section applies if the employee receives or is eligible for permanent total disability benefits, supplementary benefits, or permanent partial disability benefits or a dependent receives or is eligible for dependency benefits, or if the employee or dependent receives or is offered a lump sum that exceeds five times the statewide average weekly wage.

Subd. 2. APPOINTMENT. If an injured employee or dependent under section 176.111 does not have a guardian or conservator and the attorney representing the employee or dependent knows or has reason to believe the employee or dependent is a minor or an incapacitated person, the attorney shall, within 30 days, seek a probate court order appointing a guardian or conservator. If the employer, insurer, or special compensation fund in a matter involving a claim against the fund knows or has reason to believe the employee or dependent is a minor or is incapacitated, the employer, insurer, or special compensation fund shall notify the attorney representing the employee or dependent. If the

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employee or dependent has no attorney or the attorney fails to seek appointment of a guardian or conservator within 30 days of being notified under this subdivision, the employer or insurer shall seek the appointment in probate court and the special compensation fund shall notify the commissioner or a compensation judge for referral of the matter under subdivision 3. In the case of a minor who is not represented by an attorney, the commissioner shall refer the matter under subdivision 3.

Subd. 3. REFERRAL. When, in a proceeding before them, it appears to the commissioner, compensation judge, or, in cases upon appeal, the workers' compensation court of appeals, that an injured employee or a dependent is a minor or an incapacitated person without a guardian or conservator, the commissioner, compensation judge, or court of appeals shall refer the matter to probate court. The commissioner has no duty to monitor files at the department but must review a file for referral upon receiving a complaint that an injured employee or dependent is a minor or an incapacitated person without a guardian or conservator.

Subd. 4. GUARDIAN, CONSERVATOR; POWERS, DUTIES. A guardian or conservator of an injured employee or dependent shall have the powers and duties granted by the probate court including, but not limited to:

(1) representing the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter;

(2) receiving monetary compensation benefits, including the amount of any award, settlement, or judgment; and

(3) acting as a fiduciary in distributing, managing, and investing monetary workers' compensation benefits.

Sec. 5. Minnesota Statutes 1992, section 176.111, subdivision 5, is amended to read:

Subd. 5. PAYMENTS, TO WHOM MADE. In death cases compensation payable to dependents is computed on the following basis and shall be paid to the persons entitled thereto or to a guardian or such other person as the commissioner of the department of labor and industry, compensation judge, or workers' compensation court of appeals in cases upon appeal directs for the use and benefit of the person entitled thereto conservator as required under section 176.092.

Sec. 6. Minnesota Statutes 1992, section 176.136, subdivision 1b, is amended to read:

Subd. 1b. LIMITATION OF LIABILITY. (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 100 or fewer licensed beds.

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(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or 1c or paragraph (a) shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

(c) The limitation of liability for charges provided by paragraph (b) does not apply to a nursing home that participates in the medical assistance program and whose rates are established by the commissioner of human services.

Sec. 7. Minnesota Statutes 1992, section 176.521, subdivision 1, is amended to read:

Subdivision 1. **VALIDITY.** An agreement between an employee or an employee's dependent and the employer or insurer to settle any claim, which is not upon appeal before the court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties and intervenors in the matter, and, where one or more of the parties is not represented by an attorney, the commissioner or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the court of appeals or district court, the court of appeals or district court is the approving body. An agreement to settle any claim is not valid if a guardian or conservator is required under section 176.092 and an employee or dependent has no guardian or conservator.

Sec. 8. Minnesota Statutes 1992, section 176.521, subdivision 2, is amended to read:

Subd. 2. **APPROVAL.** Settlements shall be approved only if the terms conform with this chapter.

The commissioner, a compensation judge, the court of appeals, and the district court shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or the employee's dependent and the employer or insurer are represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the commissioner, a compensation judge, or court of appeals.

The conclusive presumption in this subdivision is not available in cases involving an employee or dependent with a guardian or conservator.

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The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

**Sec. 9. [525.6199] GUARDIANSHIP, CONSERVATORSHIP; WORKERS' COMPENSATION PROCEEDINGS.**

Subdivision 1. REFERRAL. When a matter is referred under section 176.092, subdivision 3, the court shall determine whether the employee or dependent is a minor or an incapacitated person, shall appoint a guardian or conservator if the employee or dependent is a minor or an incapacitated person, and shall return the matter to the source of referral.

Subd. 2. COURT OVERSIGHT. The court shall oversee the use of monetary benefits paid to a guardian or conservator as provided in this chapter or under rule 145 of the general rules of practice for the district courts. There is a rebuttable presumption that a settlement or award approved by the commissioner of the department of labor and industry or a compensation judge is reasonable and fair to the employee or dependent.

Subd. 3. COSTS. Subject to the approval of the court, the insurer or self-insured employer shall pay the costs and a reasonable attorney fee of the employee or dependent associated with the appointment of a guardian or conservator required under section 176.092.

**Sec. 10. EFFECTIVE DATE.**

Section 1 is effective August 1, 1993, and applies to all workers' compensation insurance policies issued or renewed on or after that date. Section 2 is effective the day following final enactment. Sections 3 to 5 and 7 to 9 are effective August 1, 1993, and apply to all monetary benefits paid on or after that date, without regard to the date of injury.

Presented to the governor May 12, 1993

Signed by the governor May 14, 1993, 3:41 p.m.

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**CHAPTER 195—S.F.No. 490**

*An act relating to state lands; authorizing the sale of certain tax-forfeited land that borders public water in Washington county to the city of Oakdale; authorizing the conveyance of an easement across department of natural resources-fisheries land.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

**Section 1. WASHINGTON COUNTY; SALE OF TAX-FORFEITED LAND.**

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