

A bill for an act

relating to human services; making changes to the State-County Results, Accountability, and Service Delivery Redesign Act; specifying public employee status for service delivery units; amending Minnesota Statutes 2008, section 179A.03, subdivision 15; Minnesota Statutes 2009 Supplement, sections 402A.01; 402A.10, subdivision 5; 402A.15; 402A.18; 402A.20; proposing coding for new law in Minnesota Statutes, chapters 179A; 402A; repealing Minnesota Statutes 2009 Supplement, sections 402A.30; 402A.45.

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

Section 1. Minnesota Statutes 2008, section 179A.03, subdivision 15, is amended to read:

Subd. 15. **Public employer or employer.** "Public employer" or "employer" means:

(a) the state of Minnesota for employees of the state not otherwise provided for in this subdivision or section 179A.10 for executive branch employees;

(b) the Board of Regents of the University of Minnesota for its employees;

(c) the state court administrator for court employees;

(d) the state Board of Public Defense for its employees;

(e) Hennepin Healthcare System, Inc.;

(f) a service delivery authority created under chapter 402A; and

~~(f)~~ (g) notwithstanding any other law to the contrary, the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees. However, the views of elected appointing authorities who have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of rights and duties under sections 179A.01 to 179A.25.

When two or more units of government subject to sections 179A.01 to 179A.25 undertake a project or form a new agency under law authorizing common or joint action, the employer is the governing person or board of the created agency. The governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency according to sections 179A.01 to 179A.25.

"Public employer" or "employer" does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Nothing in this subdivision diminishes the authority granted pursuant to law to an appointing authority with respect to the selection, direction, discipline, or discharge of an individual employee if this action is consistent with general procedures and standards relating to selection, direction, discipline, or discharge which are the subject of an agreement entered into under sections 179A.01 to 179A.25.

Sec. 2. [179A.50] SERVICE DELIVERY AUTHORITY UNITS.

(a) Service delivery authorities created under chapter 402A shall be considered public employers under section 179A.03, subdivision 15.

(b) Employees of counties that form or are required to become part of a service delivery authority shall become employees of the new service delivery authority.

(c) If a majority of counties in a newly formed service delivery authority were certified as represented by an employee organization, the employees of the new service delivery authority shall continue to be certified and represented by the employee organization that represented them when they were employed by the counties.

(d) Until the service delivery authority negotiates a new collective bargaining agreement with the employee organizations, the collective bargaining agreements in effect prior to the creation of the service delivery authority shall remain in effect for employees previously covered by the agreements.

Sec. 3. Minnesota Statutes 2009 Supplement, section 402A.01, is amended to read:

402A.01 CITATION.

Sections 402A.01 to 402A.50 may be cited as the "State-County Results, Accountability, and Service Delivery ~~Reform~~ Redesign Act."

Sec. 4. Minnesota Statutes 2009 Supplement, section 402A.10, subdivision 5, is amended to read:

Subd. 5. **Service delivery authority.** "Service delivery authority" means a single county, or ~~group~~ consortium of counties operating by execution of a joint powers

agreement under section 471.59 or other contractual agreement, that has voluntarily chosen by resolution of the county board of commissioners to participate in the redesign under this chapter or has been assigned by the commissioner pursuant to section 402A.18.

Sec. 5. Minnesota Statutes 2009 Supplement, section 402A.15, is amended to read:

402A.15 STEERING COMMITTEE ON PERFORMANCE AND OUTCOME REFORMS.

Subdivision 1. **Duties.** (a) The Steering Committee on Performance and Outcome Reforms shall develop a uniform process to establish and review performance and outcome standards for all essential human services based on the current level of resources available, and ~~to shall~~ develop appropriate reporting measures and a uniform accountability process for responding to a county's or ~~human~~ service delivery authority's failure to make adequate progress on achieving performance measures. The accountability process shall focus on the performance measures rather than inflexible implementation requirements.

(b) The steering committee shall:

(1) by November 1, 2009, establish an agreed-upon list of essential services;

(2) by February 15, 2010, develop and recommend to the legislature a uniform, graduated process, in addition to the remedies identified in section 402A.18, for responding to a county's failure to make adequate progress on achieving performance measures; and

(3) by December 15, 2012, for each essential service, make recommendations to the legislature regarding ~~(1)~~ (i) performance measures and goals based on those measures for each essential service, ~~(2)~~ and (ii) a system for reporting on the performance measures and goals, ~~and (3) appropriate resources, including funding, needed to achieve those performance measures and goals. The resource recommendations shall take into consideration program demand and the unique differences of local areas in geography and the populations served. Priority shall be given to services with the greatest variation in availability and greatest administrative demands.~~ By January 15 of each year starting January 15, 2011, the steering committee shall report its recommendations to the governor and legislative committees with jurisdiction over health and human services. As part of its report, the steering committee shall, as appropriate, recommend statutory provisions, rules and requirements, and reports that should be repealed or eliminated.

(c) As far as possible, the performance measures, reporting system, and funding shall be consistent across program areas. The development of performance measures shall consider the manner in which data will be collected and performance will be reported. The steering committee shall consider state and local administrative costs related to collecting data and reporting outcomes when developing performance measures. ~~The~~

~~steering committee shall correlate the performance measures and goals to available levels of resources, including state and local funding. The steering committee shall also identify and incorporate federal performance measures in its recommendations for those program areas where federal funding is contingent on meeting federal performance standards.~~ The steering committee shall take into consideration that the goal of implementing changes to program monitoring and reporting the progress toward achieving outcomes is to significantly minimize the cost of administrative requirements and to allow funds freed by reduced administrative expenditures to be used to provide additional services, allow flexibility in service design and management, and focus energies on achieving program and client outcomes.

(d) In making its recommendations, the steering committee shall consider input from the council established in section 402A.20. ~~The steering committee shall review the measurable goals established in a memorandum of understanding entered into under section 402A.30, subdivision 2, paragraph (b), and consider whether they may be applied as statewide performance outcomes.~~

(e) The steering committee shall form work groups that include persons who provide or receive essential services and representatives of organizations who advocate on behalf of those persons.

(f) By December 15, 2009, the steering committee shall establish a three-year schedule for completion of its work. The schedule shall be published on the Department of Human Services Web site and reported to the legislative committees with jurisdiction over health and human services. In addition, the commissioner shall post quarterly updates on the progress of the steering committee on the Department of Human Services Web site.

Subd. 2. Composition. (a) The steering committee shall include:

(1) the commissioner of human services, or designee, and two additional representatives of the department;

(2) two county commissioners, representative of rural and urban counties, selected by the Association of Minnesota Counties;

(3) two county directors of human services, representative of rural and urban counties, selected by the Minnesota Association of County Social Service Administrators; and

(4) three clients or client advocates representing different populations receiving services from the Department of Human Services, who are appointed by the commissioner.

(b) The commissioner, or designee, and a county commissioner shall serve as cochairs of the committee. The committee shall be convened within 60 days of May 15, 2009.

(c) State agency staff shall serve as informational resources and staff to the steering committee. Statewide county associations may assemble county program data as required.

~~(d) To promote information sharing and coordination between the steering committee and council, one of the county representatives from paragraph (a), clause (2), and one of the county representatives from paragraph (a), clause (3), must also serve as a representative on the council under section 402A.20, subdivision 1, paragraph (b), clause (5) or (6).~~

Sec. 6. Minnesota Statutes 2009 Supplement, section 402A.18, is amended to read:

402A.18 COMMISSIONER POWER TO REMEDY FAILURE TO MEET PERFORMANCE OUTCOMES.

Subdivision 1. **Underperforming county; specific service.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance outcomes for a specific essential service, the commissioner may impose the following remedies and adjust state and federal program allocations accordingly:

(1) voluntary incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;

(2) mandatory incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or

(3) transfer of authority for program administration and operation of the specific essential service to the commissioner.

Subd. 2. **Underperforming county; more than one-half of service services.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance outcomes for more than one-half of the defined essential service services, the commissioner may impose the following remedies:

(1) voluntary incorporation of the administration and operation of ~~the specific~~ essential service services with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;

(2) mandatory incorporation of the administration and operation of ~~the specific~~ essential ~~service~~ services with an existing service delivery authority or another county.

A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or

(3) transfer of authority for program administration and operation of ~~the specific~~ essential ~~service~~ services to the commissioner.

Subd. 2a. **Financial responsibility of underperforming county.** A county subject to remedies under subdivision 1 or 2 shall provide to the entity assuming administration of the essential service or essential services the amount of nonfederal and nonstate funding needed to remedy performance outcome deficiencies.

Subd. 3. **Conditions prior to imposing remedies.** Before the commissioner may impose the remedies authorized under this section, the following conditions must be met:

(1) the county or service delivery authority determined by the commissioner to be deficient in achieving minimum performance outcomes has the opportunity, in coordination with the council, to develop a program outcome improvement plan. The program outcome improvement plan must be developed no later than six months from the date of the deficiency determination; and

(2) the council has conducted an assessment of the program outcome improvement plan to determine if the county or service delivery authority has made satisfactory progress toward performance outcomes and has made a recommendation about remedies to the commissioner. ~~The review~~ assessment and recommendation must be made to the commissioner within 12 months from the date of the deficiency determination.

Sec. 7. Minnesota Statutes 2009 Supplement, section 402A.20, is amended to read:

402A.20 COUNCIL.

Subdivision 1. **Council.** (a) The State-County Results, Accountability, and Service Delivery Redesign Council is established. Appointed council members must be appointed by their respective agencies, associations, or governmental units by November 1, 2009. The council shall be cochaired by the commissioner of human services, or designee, and a county representative from paragraph (b), clause (4) or (5), appointed by the Association of Minnesota Counties. Recommendations of the council must be approved by a majority of the voting council members. The provisions of section 15.059 do not apply to this council, and this council does not expire.

(b) The council must consist of the following members:

(1) two legislators appointed by the speaker of the house, one from the minority and one from the majority;

(2) two legislators appointed by the Senate Rules Committee, one from the majority and one from the minority;

(3) the commissioner of human services, or designee, and three employees from the department;

(4) two county commissioners appointed by the Association of Minnesota Counties;

(5) two county representatives appointed by the Minnesota Association of County Social Service Administrators;

(6) one representative appointed by AFSCME ~~as a nonvoting member~~ Council 5 and one representative appointed by AFSCME Council 65 as nonvoting members; and

(7) one representative appointed by the Teamsters as a nonvoting member.

(c) Administrative support to the council may be provided by the Association of Minnesota Counties and affiliates.

(d) Member agencies and associations are responsible for initial and subsequent appointments to the council.

Subd. 2. **Council duties.** The council shall:

(1) provide review of the service delivery redesign process, including proposed memoranda of understanding to establish a service delivery authority to conduct and administer experimental projects to test new methods and procedures of delivering services;

~~(2) certify, in accordance with section 402A.30, subdivision 4, the formation of a service delivery authority, including the memorandum of understanding in section 402A.30, subdivision 2, paragraph (b);~~

~~(3) ensure the consistency of the memorandum of understanding entered into under section 402A.30, subdivision 2, paragraph (b), with the performance standards recommended by the steering committee and enacted by the legislature;~~

~~(4)~~ (2) ensure the consistency of the memorandum of understanding, to the extent appropriate, ~~or with~~ or with other memorandum of understanding entered into by other service delivery authorities;

(3) review and make recommendations on applications from a service delivery authority for waivers of statutory or rule program requirements that are needed for flexibility to determine the most cost-effective means of achieving specified measurable goals in a redesign of human services delivery;

~~(5)~~ (4) establish a process to take public input on the ~~service delivery framework specified in the memorandum of understanding in section 402A.30, subdivision 2,~~

~~paragraph (b)~~ scope of essential services over which a service delivery authority has jurisdiction;

~~(6)~~ (5) form work groups as necessary to carry out the duties of the council under the redesign;

~~(7)~~ (6) serve as a forum for resolving conflicts among participating counties or between participating counties and the commissioner of human services, provided nothing in this section is intended to create a formal binding legal process;

~~(8)~~ (7) engage in the program improvement process established in section 402A.18, subdivision 3; and

~~(9)~~ (8) identify and recommend incentives for counties to participate in ~~human services~~ service delivery authorities.

Subd. 3. **Program evaluation.** By December 15, 2014, the council shall request consideration by the legislative auditor for a reevaluation under section 3.971, subdivision 7, of those aspects of the program evaluation of human services administration reported in January 2007 affected by this chapter.

Sec. 8. [402A.35] DESIGNATION OF SERVICE DELIVERY AUTHORITY.

Subdivision 1. **Requirements for establishing a service delivery authority.** (a) A county or consortium of counties is eligible to establish a service delivery authority if:

(1) the county or consortium of counties are:

(i) a single county with a population of 55,000 or more;

(ii) a consortium of counties with a total combined population of 55,000 or more and the counties comprising the group are in reasonable geographic proximity; or

(iii) a consortium of four or more counties in reasonable geographic proximity without regard to population.

The council may recommend that the commissioner of human services exempt a single county or multicounty consortium from the minimum population standard if the county or group of counties can demonstrate that it can otherwise meet the requirements of this chapter.

(b) A service delivery authority shall:

(1) comply with current state and federal law, including any existing federal or state performance measures and performance measures under section 402A.15 when they are enacted into law, except where waivers are approved by the commissioner. Nothing in this subdivision requires the establishment of performance measures under section 402A.15 prior to a service delivery authority participating in the service delivery redesign under this chapter;

9.1 (2) define the scope of essential services over which the service delivery authority
9.2 has jurisdiction;

9.3 (3) designate a single administrative structure to oversee the delivery of those
9.4 services included in a proposal for a redesigned service or services and identify a single
9.5 administrative agent for purposes of contact and communication with the department;

9.6 (4) identify the waivers from statutory or rule program requirements that are needed
9.7 to ensure greater local control and flexibility to determine the most cost effective means of
9.8 achieving specified measurable goals that the participating service delivery authority is
9.9 expected to achieve;

9.10 (5) set forth a reasonable level of targeted reductions in overhead and administrative
9.11 costs for each service delivery authority participating in the service delivery redesign;

9.12 (6) set forth the terms under which a county may withdraw from participation.

9.13 (c) Once a county or consortium of counties establishes a service delivery authority,
9.14 no county that is a member of the service delivery authority may participate as a member
9.15 of any other service delivery authority. The service delivery authority may allow an
9.16 additional county or counties to join the service delivery authority subject to the approval
9.17 of the council and the commissioner.

9.18 (d) Nothing in this chapter precludes local governments from utilizing sections
9.19 465.81 and 465.82 to establish procedures for local governments to merge, with the
9.20 consent of the voters. Nothing in this chapter limits the authority of a county board to enter
9.21 into contractual agreements for services not covered by the provisions of a memorandum
9.22 of understanding establishing a service delivery authority with other agencies or with
9.23 other units of government.

9.24 Subd. 2. **Duties.** The service delivery authority shall:

9.25 (1) within the scope of essential services set forth in the memorandum of
9.26 understanding establishing the authority, carry out the responsibilities required of local
9.27 agencies under chapter 393 and human services boards under chapter 402;

9.28 (2) manage the public resources devoted to human services and other public services
9.29 delivered or purchased by the counties that are subsidized or regulated by the Department
9.30 of Human Services under chapters 245 to 261;

9.31 (3) employ staff to assist in carrying out its duties;

9.32 (4) develop and maintain a continuity of operations plan to ensure the continued
9.33 operation or resumption of essential human services functions in the event of any business
9.34 interruption according to local, state, and federal emergency planning requirements;

9.35 (5) receive and expend funds received for the redesign process under the
9.36 memorandum of understanding;

(6) plan and deliver services directly or through contract with other governmental or nongovernmental providers;

(7) rent, purchase, sell, and otherwise dispose of real and personal property as necessary to carry out the redesign; and

(8) carry out any other service designated as a responsibility of a county.

Subd. 3. **Process for establishing a service delivery authority.** (a) The county or consortium of counties meeting the requirements of section 402A.30 and proposing to establish a service delivery authority shall present to the council:

(1) in conjunction with the commissioner, a proposed memorandum of understanding meeting the requirements of subdivision 1, paragraph (b), and outlining:

(i) the details of the proposal;

(ii) the state and local resources, which may include but are not limited to funding, administrative and technology support, and other requirements necessary for the service delivery authority; and

(iii) the relief available to the service delivery authority if the resource commitments identified in item (ii) are not met; and

(2) a board resolution from the board of commissioners of each participating county stating the county's intent to participate.

(b) After the council has considered and recommended approval of a proposed memorandum of understanding, the commissioner may finalize and execute the memorandum of understanding.

Subd. 4. **Commissioner authority to seek waivers.** The commissioner may use the authority under section 256.01, subdivision 2, paragraph (l), to grant waivers identified as part of a proposed service delivery authority under subdivision 1, paragraph (b), clause (4), except that waivers granted under this section must be approved by the council under section 402A.20 rather than the Legislative Advisory Committee.

Sec. 9. REPEALER.

Minnesota Statutes 2009 Supplement, sections 402A.30; and 402A.45, are repealed.

402A.30 DESIGNATION OF SERVICE DELIVERY AUTHORITY.

Subdivision 1. **Establishment.** After certification by the council and approval by the commissioner, in accordance with subdivision 4, a county or consortium of counties may establish a service delivery authority to redesign the delivery of some or all essential services. Once a county or consortium of counties establishes a service delivery authority, no county that is a participant in the service delivery authority may participate in or be a member of any other service delivery authority. The service delivery authority may allow an additional county or counties to join the service delivery authority subject to the approval of the council and the commissioner.

Subd. 2. **New state-county governance framework.** (a) To establish a service delivery authority, each participating county and the state must enter into a binding memorandum of understanding to establish a joint state-county service delivery framework:

- (b) The memorandum of understanding must:
 - (1) comply with current state and federal law except where waivers are approved under clause (7);
 - (2) define the scope of essential services over which the service delivery authority has jurisdiction;
 - (3) designate a single administrative structure to oversee the delivery of services over which the service delivery authority has jurisdiction and identify a single administrative agent for purposes of contact and communication with the department;
 - (4) define measurable performance and outcome goals in key operational areas that the service delivery authority is expected to achieve, provided that the performance goals must, at a minimum, satisfy performance outcomes recommended by the steering committee and enacted into law;
 - (5) identify the state and local resources, including funding and administrative and information technology support, and other requirements necessary for the service delivery authority to achieve the performance and outcome goals;
 - (6) state the relief available to the service delivery authority if the resource commitments identified in clause (5) are not met;
 - (7) identify in the agreement the waivers from statutory requirements that are needed to ensure greater local control and flexibility to determine the most cost-effective means of achieving specified measurable goals and the date by which the commissioner shall grant the identified waivers;
 - (8) set forth a graduated accountability process and penalties for responding to a county's failure to make adequate progress on achieving performance and outcome goals;
 - (9) set forth a reasonable level of targeted reductions in overhead and administrative costs for each county participating in the service delivery authority; and
 - (10) set forth the terms under which a county may withdraw from participation.

The memorandum of understanding may be later amended to add additional services over which the service delivery authority has jurisdiction.

(c) Nothing in this chapter precludes local governments from utilizing sections 465.81 and 465.82 to establish procedures for local governments to merge, with the consent of the voters. Any agreement under paragraph (b) must be governed by this chapter. Nothing in this chapter limits the authority of a county board to enter into contractual agreements for services not covered by the provisions of a memorandum of understanding establishing a service delivery authority with other agencies or with other units of government.

Subd. 3. **Duties.** The service delivery authority shall:

- (1) within the scope of essential services set forth in the memorandum of understanding establishing the authority, carry out the responsibilities required of local agencies under chapter 393 and human services boards under chapter 402;
- (2) manage the public resources devoted to human services and other public services delivered or purchased by the counties that are subsidized or regulated by the Department of Human Services under chapters 245 and 267;
- (3) employ staff to assist in carrying out its duties;
- (4) develop and maintain a continuity of operations plan to ensure the continued operation or resumption of essential human services functions in the event of any business interruption according to local, state, and federal emergency planning requirements;
- (5) receive and expend funds received for the redesign process under the memorandum of understanding;
- (6) plan and deliver services directly or through contract with other governmental or nongovernmental providers;

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(7) rent, purchase, sell, and otherwise dispose of real and personal property as necessary to carry out the redesign; and

(8) carry out any other service designated as a responsibility of a county.

Subd. 4. **Process for establishing a service delivery authority.** (a) The county or consortium of counties proposing to form a service delivery authority shall, in conjunction with the commissioner, present a proposed memorandum of understanding to the council accompanied by a resolution from the board of commissioners of each participating county stating the county's intent to participate in a service delivery authority.

(b) The council shall certify a county or consortium of counties as a service delivery authority if:

(1) the conditions in subdivision 2, paragraphs (a) and (b), are met; and

(2) the county or consortium of counties are:

(i) a single county with a population of 55,000 or more;

(ii) a consortium of counties with a total combined population of 55,000 or more and the counties comprising the consortium are in reasonable geographic proximity; or

(iii) four or more counties in reasonable geographic proximity without regard to population.

The council may recommend that the commissioner of human services exempt a single county or multicounty service delivery authority from the minimum population standard if that service delivery authority can demonstrate that it can otherwise meet the requirements of this chapter.

(c) After the council has certified a county or consortium of counties as a service delivery authority, the commissioner may enter into the memorandum of understanding with the participating counties to form the service delivery authority.

Subd. 5. **Single county service delivery authority.** For counties with populations over 55,000, the board of county commissioners may be the service delivery authority and retain existing authority under law.

402A.45 ESSENTIAL SERVICES OUTSIDE JURISDICTION OF SERVICE DELIVERY AUTHORITY.

(a) With the approval of the council, a county that is a participant in a service delivery authority may enter into cooperative arrangements with other service delivery authorities or other counties to provide essential services that are not within the jurisdiction and duties of the service delivery authority.

(b) With the approval of the council, a service delivery authority may enter into a cooperative arrangement with a nonparticipating county to provide an essential service within the jurisdiction and duties of the service delivery authority.