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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1072

03/04/2013 Authored by Bly and Loeffler

The bill was read for the first time and referred to the Committee on Government Operations

03/14/2013 Adoption of Report: Pass and re-referred to the Committee on State Government Finance and Veterans Affairs

1.1 A bill for an act
1.2 relating to local government; establishing a county alternative service delivery
1.3 pilot program; providing for employees transferred to provide alternative service
1.4 delivery under the pilot program; proposing coding for new law in Minnesota
1.5 Statutes, chapter 375.

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

1.7 Section 1. **[375.90] MINNESOTA ACCOUNTABLE GOVERNMENT**
1.8 **INNOVATION AND COLLABORATION (MAGIC) ACT.**

1.9 Sections 375.90 to 375.97 may be cited as the "Minnesota Accountable Government
1.10 Innovation and Collaboration (MAGIC) Act." It is established to develop and test
1.11 alternative models for service delivery by counties that are focused on performance
1.12 measures and outcomes rather than processes for delivering services.

1.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.14 Sec. 2. **[375.91] DEFINITIONS.**

1.15 Subdivision 1. **Application.** The terms defined in this section apply to sections
1.16 375.90 to 375.97.

1.17 Subd. 2. **Commissioner.** "Commissioner" means the commissioner or
1.18 commissioners of the affected state agency or agencies reviewing or approving a county
1.19 alternative service delivery pilot project business plan and performance measures and
1.20 outcome goals.

1.21 Subd. 3. **County.** "County" includes an individual county, a group of contiguous
1.22 counties, a joint powers board of which a county is a member, and a service delivery
1.23 authority as defined in section 402A.10, subdivision 5.

2.1 Subd. 4. **Pilot project.** "Pilot project" means a service, program, or process that a
 2.2 county is operating through an alternative service delivery method approved under sections
 2.3 375.90 to 375.97 and that requires (1) authority not expressly provided or necessarily
 2.4 implied in law for the county, or (2) a waiver of or exemption from a law, rule, or procedure.

2.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.6 Sec. 3. **[375.92] POWERS NECESSARY FOR PILOT PROJECTS.**

2.7 (a) A county may exercise powers not expressly provided or necessarily implied
 2.8 in law for the county if they are specifically necessary and required to implement a pilot
 2.9 project approved under section 375.93, but may not take any action expressly denied by or
 2.10 inconsistent with the laws and regulations of the state or the United States.

2.11 (b) In exercising these powers, a county must not act in conflict with or inconsistent
 2.12 with the powers and duties of other political subdivisions within the county.

2.13 (c) The authority granted in this section is subject to section 471.633 and all other
 2.14 laws related to express preemption of local control.

2.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.16 Sec. 4. **[375.93] PILOT PROJECT SELECTION PROCESS.**

2.17 Subdivision 1. **Scope of pilot project program.** Each pilot project must be
 2.18 substantively different from any other pilot project. No pilot project may be approved
 2.19 if its implementation would be in conflict with or inconsistent with the powers, duties,
 2.20 ordinances, or resolutions of political subdivisions within the county.

2.21 Subd. 2. **Application process.** The commissioner, in consultation with and with
 2.22 assistance from the Association of Minnesota Counties, shall determine the appropriate
 2.23 application procedures for a proposed pilot project.

2.24 Subd. 3. **County initiation; notice.** A county may apply to the commissioner for
 2.25 permission to implement an alternative service delivery pilot project. The application, at a
 2.26 minimum, must include a resolution adopted at a regular meeting of the county board.
 2.27 At least one week before adopting the resolution, the county must allow public comment
 2.28 on the pilot project proposal at a public hearing held after at least two weeks' published
 2.29 notice. The county must provide notice of the proposed pilot project to (1) the collective
 2.30 bargaining units with which the county has agreements, and (2) any person or organization
 2.31 that represents potentially affected service recipients. The county board must permit any
 2.32 party receiving notice of the proposed pilot project and any other interested parties to

3.1 provide comments on the proposal before the county board takes action on the proposed
3.2 resolution to submit a pilot project for implementation.

3.3 Subd. 4. **County business plan.** The county alternative service delivery business
3.4 plan must:

3.5 (1) identify the service, program, process, or structure at issue;

3.6 (2) identify the power the county needs to exercise that is not authorized in law,
3.7 if applicable;

3.8 (3) identify the law or administrative rule imposing a requirement with respect to
3.9 which the waiver or exemption is requested, if applicable;

3.10 (4) include a description of the performance measures developed under section 6.91
3.11 or other method and outcomes sought, including an explanation of the effect of the waiver
3.12 or exemption in accomplishing that outcome, if applicable;

3.13 (5) include a description of the means by which the attainment of the outcome
3.14 will be measured;

3.15 (6) specify the proposed date of implementation and expiration for the alternative
3.16 service delivery model over a time period of not less than 12 months and not more than
3.17 36 months;

3.18 (7) describe the consideration given to intergovernmental cooperation in providing
3.19 this service, and explain why the county has elected to proceed independently if the waiver
3.20 or exemption is proposed by a single county;

3.21 (8) describe how the county will seek out and take into consideration the advice of
3.22 those receiving services who may be affected by the pilot project;

3.23 (9) describe how the county has consulted with potentially affected public employees
3.24 in developing the business plan, state the county's assessment of what changes for public
3.25 employees may result if the pilot project becomes a permanent change, and describe how
3.26 the county will comply with chapter 179A; and

3.27 (10) include a contingency plan that allows the county to abandon the pilot project
3.28 voluntarily or due to the pilot project reaching its expiration date, and provide for the
3.29 service delivery under existing laws and procedures.

3.30 Subd. 5. **Review and approval of pilot project.** The commissioner has 60 days to
3.31 review the application. The commissioner must consult with appropriate stakeholders,
3.32 including exclusive representatives of county employees. The commissioner may approve,
3.33 reject, or propose changes to the county's pilot project. If the commissioner approves
3.34 the pilot project, the county may proceed with implementation. If the commissioner
3.35 rejects or proposes changes to the pilot project, the commissioner must provide a written
3.36 explanation to the county.

4.1 Subd. 6. **County review of proposed changes.** If the commissioner proposes
4.2 changes to the pilot project under subdivision 5, the county board must review the
4.3 proposed changes at a public hearing. The county board may:

- 4.4 (1) accept the proposed changes and proceed with implementation of the pilot project;
4.5 (2) reject the proposed changes and cancel the proposed pilot project; or
4.6 (3) seek a separate review of the pilot project under subdivision 7.

4.7 Subd. 7. **Request for separate review.** If the commissioner rejects or proposes
4.8 changes to the pilot project under subdivision 5, a county may seek a separate review of
4.9 the proposed pilot project by submitting the following information to the commissioner
4.10 of administration:

- 4.11 (1) a copy of the pilot project's proposed business plan;
4.12 (2) the commissioner's written explanation under subdivision 5; and
4.13 (3) a letter detailing the county's objections to the commissioner's rejection or
4.14 proposed changes, including comments from affected stakeholders.

4.15 Subd. 8. **Separate review by commissioner of administration.** After the
4.16 commissioner of administration receives the information required under subdivision
4.17 7, the commissioner of administration shall to review the record and render a decision
4.18 within 30 calendar days to:

- 4.19 (1) approve the county's proposed pilot project, at which point the county may
4.20 implement the pilot project;
4.21 (2) uphold the rejection or changes proposed by the commissioner; or
4.22 (3) approve a modified version of the county's proposed pilot project if those
4.23 modifications are agreed to in writing by both the county and the commissioner of the
4.24 affected state agency, during the 30-day review period.

4.25 The commissioner of administration shall provide written notice of the
4.26 commissioner's decision to both the county and commissioner of the affected state agency.

4.27 Subd. 9. **County decision.** If the commissioner of administration upholds the
4.28 proposed changes to the pilot project, the county shall review the decision at a public
4.29 hearing. The county may choose either to accept any proposed changes to the pilot project
4.30 or reject the proposed changes and cancel the proposed pilot project.

4.31 Subd. 10. **No prejudice or violation of rights.** Before the county may begin
4.32 implementation of an alternative service delivery pilot project, the commissioner and the
4.33 county must determine that any exercise of authority not expressly granted or necessarily
4.34 implied in law but necessary to achieve the outcomes, or that any proposed waiver or
4.35 suspension of a state law, rule, or administrative procedure, will not prejudice a substantial
4.36 legal right of any person, violate due process or any other state or federal law, or

5.1 jeopardize state plan agreements with the federal government and related federal funding.
 5.2 No exercise of authority or waiver or suspension of state law, rule, or administrative
 5.3 procedure may modify the requirements of chapter 13 or 13D or section 15.17, or any
 5.4 public notice requirement in law.

5.5 Subd. 11. **Modifications.** At a county's request, the commissioner may
 5.6 approve modifications to the county's performance measures and outcome goals. The
 5.7 commissioner may also submit recommended modifications in writing during the term of
 5.8 the pilot project, but a county is not required to implement the modifications.

5.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.10 Sec. 5. **[375.94] EMPLOYEES.**

5.11 Subdivision 1. **Application.** This section and sections 179A.01 to 179A.09,
 5.12 179A.12 to 179A.21, 179A.24, and 179A.25 apply to entities participating in pilot projects
 5.13 under sections 375.90 to 375.97.

5.14 Subd. 2. **When this section does not apply.** This section does not apply when
 5.15 one entity provides services to another entity and no employee of either is laid off,
 5.16 no employee's hours or benefits or seniority are reduced, no employee's employment
 5.17 is terminated, and no employee of either is otherwise displaced due to the change in
 5.18 provision of the services.

5.19 Subd. 3. **Employment, wage, benefits, employee organization status, and legal**
 5.20 **status continued.** (a) Employees of an entity covered by this section are public employees
 5.21 under section 179A.03, subdivision 14. Entities covered by this subdivision are public
 5.22 employers under section 179A.03, subdivision 15.

5.23 (b) During the term of a pilot project, all employees whose responsibilities
 5.24 are transferred to the entity and who, prior to the creation of the pilot project, were
 5.25 employees of a member of the entity, shall continue to be employees and shall retain
 5.26 their employment with the member of the entity and shall continue to be covered by
 5.27 their collective bargaining agreement, and receive all wages, benefits, and prerequisites
 5.28 due employees of the member of the entity.

5.29 **EFFECTIVE DATE.** This section is effective the day following final enactment
 5.30 and applies to pilot projects established after that date.

5.31 Sec. 6. **[375.95] CANCELLATION OF PILOT PROJECT.**

6.1 A county may abandon a pilot project if it determines it will not meet the outcomes
6.2 identified. It must follow procedures identified in its business plan to abandon the project
6.3 and provide for the service delivery under existing laws and procedures.

6.4 The commissioner may cancel a county's authority to continue operating its pilot
6.5 project if the commissioner determines that the county is not operating in compliance
6.6 with its business plan.

6.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.8 Sec. 7. **[375.96] TEMPORARY EXTENSION.**

6.9 A county may submit a request in writing to the commissioner to extend the pilot
6.10 project for up to 12 months. The request must be submitted at least 120 days before the
6.11 project's initial expiration date. The county must certify that it is seeking legislative or
6.12 agency approval to make the waivers and processes authorized under the pilot project
6.13 permanent under law or rule. The county must also notify the appropriate stakeholders of
6.14 the request for the extension. The commissioner may approve an extension request within
6.15 90 days of the pilot project's expiration, or within 60 days of receiving the extension
6.16 request, whichever is sooner. A pilot project cannot continue past its initial expiration
6.17 date without the commissioner's approval. The commissioner must provide notice of
6.18 the commissioner's decision to legislative leaders and the chairs and ranking minority
6.19 members of the legislative committees with jurisdiction over the subject matter.

6.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.21 Sec. 8. **[375.97] EVALUATION AND REPORT.**

6.22 Subdivision 1. **County report.** Each county participating in the alternative service
6.23 delivery pilot project program must provide to the commissioner an annual report on its
6.24 experience to date with the pilot project. The report is due by December 15. The report
6.25 must include information on the services or processes involved; the performance measures
6.26 and outcome goals; what waivers or exemptions were sought and granted; whether the
6.27 pilot project was modified and why; and the successes and failures, costs, savings, and
6.28 any other information the county or commissioner determines is useful in evaluating the
6.29 program. The report must also include an assessment of the changes affecting public
6.30 employees and how the county will meet the requirements of chapter 179A and section
6.31 375.94 if the pilot project becomes a permanent change in service delivery. A final report
6.32 is due within three months of the county concluding its pilot project.

7.1 Subd. 2. **Report to governor and legislature.** By January 15 of each year, the
7.2 commissioner must compile the county reports into one report to the governor, legislative
7.3 leaders, and the chairs and ranking minority members of the legislative committees with
7.4 jurisdiction over policy and finance related to state government operations, taxes, and the
7.5 program areas in which pilot projects have been implemented. The report must also list all
7.6 active pilot projects and their expiration dates.

7.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.