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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2974

03/14/2016 Authored by McDonald; Draskowski; Anderson, M.; Anderson, P.; Baker and others
The bill was read for the first time and referred to the Committee on Agriculture Policy

03/23/2016 Adoption of Report: Re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to employment; exempting temporary or seasonal agricultural workers
1.3 with an H-2A visa from overtime requirements; amending Minnesota Statutes
1.4 2015 Supplement, section 177.23, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2015 Supplement, section 177.23, subdivision 7, is
1.7 amended to read:

1.8 Subd. 7. **Employee.** "Employee" means any individual employed by an employer
1.9 but does not include:

1.10 (1) two or fewer specified individuals employed at any given time in agriculture on a
1.11 farming unit or operation who are paid a salary;

1.12 (2) any individual employed in agriculture on a farming unit or operation who is
1.13 paid a salary greater than the individual would be paid if the individual worked 48 hours at
1.14 the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

1.15 (3) an individual under 18 who is employed in agriculture on a farm to perform
1.16 services other than corn detasseling or hand field work when one or both of that minor
1.17 hand field worker's parents or physical custodians are also hand field workers;

1.18 (4) for purposes of section 177.24, an individual under 18 who is employed as a
1.19 corn detasseler;

1.20 (5) any staff member employed on a seasonal basis by an organization for work in an
1.21 organized resident or day camp operating under a permit issued under section 144.72;

1.22 (6) any individual employed in a bona fide executive, administrative, or professional
1.23 capacity, or a salesperson who conducts no more than 20 percent of sales on the premises
1.24 of the employer;

2.1 (7) any individual who renders service gratuitously for a nonprofit organization;

2.2 (8) any individual who serves as an elected official for a political subdivision or who
2.3 serves on any governmental board, commission, committee or other similar body, or who
2.4 renders service gratuitously for a political subdivision;

2.5 (9) any individual employed by a political subdivision to provide police or fire
2.6 protection services or employed by an entity whose principal purpose is to provide police
2.7 or fire protection services to a political subdivision;

2.8 (10) any individual employed by a political subdivision who is ineligible for
2.9 membership in the Public Employees Retirement Association under section 353.01,
2.10 subdivision 2b, clause (1), (2), (4), or (9), item (i);

2.11 (11) any driver employed by an employer engaged in the business of operating
2.12 taxicabs;

2.13 (12) any individual engaged in babysitting as a sole practitioner;

2.14 (13) for the purpose of section 177.25, any individual employed on a seasonal basis
2.15 in a carnival, circus, fair, or ski facility;

2.16 (14) for the purposes of section 177.25, any individual employed as a seasonal or
2.17 temporary agricultural worker under an H-2A visa;

2.18 ~~(14)~~ (15) any individual under 18 working less than 20 hours per workweek for a
2.19 municipality as part of a recreational program;

2.20 ~~(15)~~ (16) any individual employed by the state as a natural resource manager 1, 2, or
2.21 3 (conservation officer);

2.22 ~~(16)~~ (17) any individual in a position for which the United States Department of
2.23 Transportation has power to establish qualifications and maximum hours of service under
2.24 United States Code, title 49, section 31502;

2.25 ~~(17)~~ (18) any individual employed as a seafarer. The term "seafarer" means a
2.26 master of a vessel or any person subject to the authority, direction, and control of the
2.27 master who is exempt from federal overtime standards under United States Code, title 29,
2.28 section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators,
2.29 firefighters, security guards, pursers, surgeons, cooks, and stewards;

2.30 ~~(18)~~ (19) any individual employed by a county in a single-family residence owned
2.31 by a county home school as authorized under section 260B.060 if the residence is
2.32 an extension facility of that county home school, and if the individual as part of the
2.33 employment duties resides at the residence for the purpose of supervising children as
2.34 defined by section 260C.007, subdivision 4; or

3.1 ~~(19)~~ (20) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other
3.2 members of religious orders who serve pursuant to their religious obligations in schools,
3.3 hospitals, and other nonprofit institutions operated by the church or religious order.

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