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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2133

03/11/2021 Authored by Olson, L.; Christensen and Edelson
The bill was read for the first time and referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education finance; providing for employee health insurance; increasing
1.3 the minimum starting salary for nonlicensed school personnel; providing for paid
1.4 orientation and professional development for paraprofessionals; appropriating
1.5 money; amending Minnesota Statutes 2020, sections 125A.08; 471.61, by adding
1.6 a subdivision; proposing coding for new law in Minnesota Statutes, chapter 122A.

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

1.8 Section 1. 122A.401 ELIGIBILITY.

1.9 Subdivision 1. Applicant. An employee who has a serious health condition, has a
1.10 qualifying exigency, is taking safety leave, is providing family care, is bonding, or is
1.11 pregnant, and who satisfies the conditions of this section is eligible to receive benefits
1.12 subject to the provisions of sections 122A.401 to 122A.404. An "eligible employee" means
1.13 an individual employed by a school district or charter school, including a teacher or school
1.14 administrator, paraprofessional, student support services personnel, school bus driver, school
1.15 nutrition staff, and custodial staff, or any other person employed by the school district.

1.16 Subd. 2. Seven-day qualifying event. The period for which an employee is seeking
1.17 benefits must be or have been based on a single event of at least seven days duration related
1.18 to pregnancy, family care, bonding, a qualifying exigency, safety leave, or the applicant's
1.19 serious health condition. The days need not be consecutive.

1.20 Subd. 3. Certification by health care provider. Except for bonding benefits, benefits
1.21 based on a qualifying exigency, or benefits related to safety leave, the application for benefits
1.22 must be certified in writing by a qualified health care professional.

2.1 **EFFECTIVE DATE.** This section is effective for bargaining agreements entered into
2.2 or modified following the date of final enactment.

2.3 Sec. 2. **[122A.402] BENEFITS.**

2.4 Subdivision 1. **Benefit.** An employee experiencing a qualifying event shall receive a
2.5 weekly benefit equivalent to the employee's average weekly wage.

2.6 Subd. 2. **Timing of payment.** Except as otherwise provided for in sections 122A.401
2.7 to 122A.404, benefits must be paid on the employer's regular payroll.

2.8 Subd. 3. **Maximum length of benefits.** (a) Except as provided in paragraph (b), in a
2.9 52-week period, an employee may receive up to 12 weeks of benefits under sections
2.10 122A.401 to 122A.404 related to the applicant's serious health condition or pregnancy and
2.11 up to 12 weeks of benefits for bonding or family care.

2.12 (b) An employee may receive up to 26 weeks of benefits in a 52-week period for family
2.13 care of an armed service member or for one or more qualifying exigencies.

2.14 Subd. 4. **Minimum period for which benefits payable.** Any claim for benefits must
2.15 be based on a single-qualifying benefit period of at least seven days. Thereafter, benefits
2.16 may be paid for a minimum increment of one day.

2.17 Subd. 5. **Withholding of federal tax.** If the Internal Revenue Service determines that
2.18 benefits are subject to federal income tax, and an employee elects to have federal income
2.19 tax deducted and withheld from the employee's benefits, the commissioner must deduct and
2.20 withhold the amount specified in the Internal Revenue Code in a manner consistent with
2.21 state law.

2.22 **EFFECTIVE DATE.** This section is effective January 1, 2022, and for bargaining
2.23 agreements entered into or modified following the date of final enactment.

2.24 Sec. 3. **[122A.403] EMPLOYMENT PROTECTIONS.**

2.25 Subdivision 1. **Retaliation prohibited.** An employer must not retaliate against an
2.26 employee for requesting or obtaining benefits or for exercising any other right under sections
2.27 122A.401 to 122A.404.

2.28 Subd. 2. **Interference prohibited.** An employer must not obstruct or impede a request
2.29 for benefits under sections 122A.401 to 122A.404.

2.30 Subd. 3. **Waiver of rights void.** Any agreement to waive, release, or commute rights
2.31 to benefits under sections 122A.401 to 122A.404 is void.

3.1 Subd. 4. **No assignment of benefits.** Any assignment, pledge, or encumbrance of benefits
3.2 is void. Benefits are exempt from levy, execution, attachment, or any other remedy provided
3.3 for the collection of debt. Any waiver of this subdivision is void.

3.4 Subd. 5. **Continued insurance.** During any leave for which an employee is entitled to
3.5 benefits under sections 122A.401 to 122A.404, the employer must maintain coverage under
3.6 any group insurance policy, group subscriber contract, or health care plan for the employee
3.7 and any dependents as if the employee was not on leave, provided that the employee must
3.8 continue to pay any employee share of the cost of such benefits.

3.9 Subd. 6. **Reinstatement after leave.** An employee taking leave for which the employee
3.10 is eligible for benefits under sections 122A.401 to 122A.404 is, upon the expiration of that
3.11 leave, entitled to restoration by the employer to the position held by the employee when the
3.12 leave commenced, or to a position with equivalent seniority, status, employment benefits,
3.13 pay, and other terms and conditions of employment including fringe benefits and service
3.14 credits that the employee had been entitled to at the commencement of that leave.

3.15 Subd. 7. **Remedies.** In addition to any other remedies available by law, an individual
3.16 injured by a violation of this section may bring a civil action seeking any damages
3.17 recoverable by law, together with costs and disbursements, including reasonable attorney
3.18 fees, and may receive injunctive and other equitable relief as determined by a court.

3.19 **EFFECTIVE DATE.** This section is effective for bargaining agreements entered into
3.20 or modified following the date of final enactment.

3.21 Sec. 4. **[122A.404] BONDING LEAVE.**

3.22 Bonding leave taken under sections 122A.401 to 122A.404 begins at a time requested
3.23 by the employee. Bonding leave must begin within 12 months of the birth, adoption, or
3.24 placement of a foster child except that, in the case where the child must remain in the hospital
3.25 longer than the mother, the leave must begin within 12 months after the child leaves the
3.26 hospital.

3.27 **EFFECTIVE DATE.** This section is effective for bargaining agreements entered into
3.28 or modified following the date of final enactment.

3.29 Sec. 5. Minnesota Statutes 2020, section 125A.08, is amended to read:

3.30 **125A.08 INDIVIDUALIZED EDUCATION PROGRAMS.**

3.31 (a) At the beginning of each school year, each school district shall have in effect, for
3.32 each child with a disability, an individualized education program.

4.1 (b) As defined in this section, every district must ensure the following:

4.2 (1) all students with disabilities are provided the special instruction and services which
4.3 are appropriate to their needs. Where the individualized education program team has
4.4 determined appropriate goals and objectives based on the student's needs, including the
4.5 extent to which the student can be included in the least restrictive environment, and where
4.6 there are essentially equivalent and effective instruction, related services, or assistive
4.7 technology devices available to meet the student's needs, cost to the district may be among
4.8 the factors considered by the team in choosing how to provide the appropriate services,
4.9 instruction, or devices that are to be made part of the student's individualized education
4.10 program. The individualized education program team shall consider and may authorize
4.11 services covered by medical assistance according to section 256B.0625, subdivision 26.
4.12 Before a school district evaluation team makes a determination of other health disability
4.13 under Minnesota Rules, part 3525.1335, subparts 1 and 2, item A, subitem (1), the evaluation
4.14 team must seek written documentation of the student's medically diagnosed chronic or acute
4.15 health condition signed by a licensed physician or a licensed health care provider acting
4.16 within the scope of the provider's practice. The student's needs and the special education
4.17 instruction and services to be provided must be agreed upon through the development of
4.18 an individualized education program. The program must address the student's need to develop
4.19 skills to live and work as independently as possible within the community. The individualized
4.20 education program team must consider positive behavioral interventions, strategies, and
4.21 supports that address behavior needs for children. During grade 9, the program must address
4.22 the student's needs for transition from secondary services to postsecondary education and
4.23 training, employment, community participation, recreation, and leisure and home living. In
4.24 developing the program, districts must inform parents of the full range of transitional goals
4.25 and related services that should be considered. The program must include a statement of
4.26 the needed transition services, including a statement of the interagency responsibilities or
4.27 linkages or both before secondary services are concluded. If the individualized education
4.28 program meets the plan components in section 120B.125, the individualized education
4.29 program satisfies the requirement and no additional transition plan is needed;

4.30 (2) children with a disability under age five and their families are provided special
4.31 instruction and services appropriate to the child's level of functioning and needs;

4.32 (3) children with a disability and their parents or guardians are guaranteed procedural
4.33 safeguards and the right to participate in decisions involving identification, assessment
4.34 including assistive technology assessment, and educational placement of children with a
4.35 disability;

5.1 (4) eligibility and needs of children with a disability are determined by an initial
5.2 evaluation or reevaluation, which may be completed using existing data under United States
5.3 Code, title 20, section 33, et seq.;

5.4 (5) to the maximum extent appropriate, children with a disability, including those in
5.5 public or private institutions or other care facilities, are educated with children who are not
5.6 disabled, and that special classes, separate schooling, or other removal of children with a
5.7 disability from the regular educational environment occurs only when and to the extent that
5.8 the nature or severity of the disability is such that education in regular classes with the use
5.9 of supplementary services cannot be achieved satisfactorily;

5.10 (6) in accordance with recognized professional standards, testing and evaluation materials,
5.11 and procedures used for the purposes of classification and placement of children with a
5.12 disability are selected and administered so as not to be racially or culturally discriminatory;
5.13 and

5.14 (7) the rights of the child are protected when the parents or guardians are not known or
5.15 not available, or the child is a ward of the state.

5.16 (c) For all paraprofessionals employed to work in programs whose role in part is to
5.17 provide direct support to students with disabilities, the school board in each district shall
5.18 ensure that:

5.19 (1) before or beginning at the time of employment, each paraprofessional must develop
5.20 sufficient knowledge and skills in emergency procedures, building orientation, roles and
5.21 responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin
5.22 meeting the needs, especially disability-specific and behavioral needs, of the students with
5.23 whom the paraprofessional works;

5.24 (2) before beginning work with an individual student with a disability, each
5.25 paraprofessional must be given paid time to review a student's individualized education
5.26 program and paid time to collaborate with a student's teacher regarding the plan;

5.27 ~~(2)~~ (3) annual training opportunities are required to enable the paraprofessional to
5.28 continue to further develop the knowledge and skills that are specific to the students with
5.29 whom the paraprofessional works, including understanding disabilities, the unique and
5.30 individual needs of each student according to the student's disability and how the disability
5.31 affects the student's education and behavior, following lesson plans, and implementing
5.32 follow-up instructional procedures and activities; ~~and~~

6.1 (4) a minimum of 16 hours of paid orientation or professional development must be
 6.2 provided annually to all paraprofessionals, Title I aides, and other instructional support staff
 6.3 before the first instructional day of the school year. The orientation or professional
 6.4 development must be relevant to the employee's occupation and may include collaboration
 6.5 time with classroom teachers and planning for the school year. For paraprofessionals who
 6.6 provide direct support to students, at least 50 percent of the professional development or
 6.7 orientation must be dedicated to meeting the requirements of this section. Professional
 6.8 development for paraprofessionals may also address the requirements of section 120B.363,
 6.9 subdivision 3. A school administrator must provide an annual certification of compliance
 6.10 with this requirement to the commissioner; and

6.11 ~~(3)~~ (5) a districtwide process obligates each paraprofessional to work under the ongoing
 6.12 direction of a licensed teacher and, where appropriate and possible, the supervision of a
 6.13 school nurse.

6.14 (d) A school district may conduct a functional behavior assessment as defined in
 6.15 Minnesota Rules, part 3525.0210, subpart 22, as a stand-alone evaluation without conducting
 6.16 a comprehensive evaluation of the student in accordance with prior written notice provisions
 6.17 in section 125A.091, subdivision 3a. A parent or guardian may request that a school district
 6.18 conduct a comprehensive evaluation of the parent's or guardian's student.

6.19 Sec. 6. Minnesota Statutes 2020, section 471.61, is amended by adding a subdivision to
 6.20 read:

6.21 **Subd. 6. Premium costs for school employees.** (a) A school district, intermediate school
 6.22 district, cooperative, or charter school must participate in employee health care cost sharing
 6.23 on the following basis:

6.24 (1) at least 83 percent of the annual health insurance premium and at least 50 percent of
 6.25 the annual out-of-pocket maximum must be contributed for employees covered under a
 6.26 single premium; and

6.27 (2) at least 72 percent of the annual health insurance premium and at least 50 percent of
 6.28 the annual out-of-pocket maximum must be contributed for employees covered under a
 6.29 family premium.

6.30 (b) Employers must receive financial assistance at the rate of \$..... per pupil unit to
 6.31 fund the cost sharing in paragraph (a) and a school district shall have the authority to levy
 6.32 for an amount equal to the financial assistance provided by the commissioner of education.

7.1 **EFFECTIVE DATE.** This section is effective for bargaining agreements entered into
 7.2 or modified following the date of final enactment.

7.3 Sec. 7. **APPROPRIATION.**

7.4 Subdivision 1. **Department of Education.** The sums in this section are appropriated
 7.5 from the general fund to the commissioner of education for the fiscal years designated.

7.6 Subd. 2. **Nonlicensed school personnel.** For increasing the minimum starting salary for
 7.7 nonlicensed school personnel to \$20 per hour:

7.8	\$	.....	.....	<u>2022</u>
7.9	\$	.....	.....	<u>2023</u>

7.10 Sec. 8. **APPROPRIATION.**

7.11 Subdivision 1. **Department of Education.** The sums in this section are appropriated
 7.12 from the general fund to the commissioner of education for the fiscal years designated.

7.13 Subd. 2. **Paraprofessional training.** For costs associated with paid orientation and
 7.14 professional development for paraprofessionals under Minnesota Statutes, section 125A.08:

7.15	\$	.....	.....	<u>2022</u>
7.16	\$	.....	.....	<u>2023</u>