

previous six months, and be made on the physician's letterhead or contain the physician's name, address, and telephone number. A person charged with violating subdivision 5 may not be convicted if the person produces the physician's statement in court or in the office of the arresting officer.

Approved May 11, 1987

CHAPTER 74—H.F.No. 510

An act relating to Dakota county; providing for the creation, organization, powers, and duties of a personnel system; authorizing the county to provide certain services to the Dakota county historical society; proposing coding for new law as Minnesota Statutes, chapter 383D.

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

Section 1. [383D.21] PERSONNEL ADMINISTRATION SYSTEM; RESOLUTION TO ESTABLISH SYSTEM.

The Dakota county board may establish a county personnel administration system by a resolution creating an employee relations department, establishing its effective date and appointing a personnel board of appeals pursuant to section 10.

Sec. 2. [383D.22] DEFINITIONS.

Subdivision 1. For the purpose of sections 1 to 15, unless the context clearly indicates that a different meaning is intended, the terms defined in this section have the following meanings.

Subd. 2. "Appointing authority" means an official, employee, board, or commission, or other person or body empowered by law, ordinance, or resolution to make an appointment to a position as a county employee within the scope of sections 1 to 15.

Subd. 3. "Director" means the director of the employee relations department.

Subd. 4. "Employee relations department" means the employee relations director and the employees engaged in the administration of the employee relations department.

Subd. 5. "Board of appeals" means the personnel board of appeals established pursuant to section 10.

Subd. 6. "Classified service" means all positions existing on the effective date of this act or subsequently created that are under the jurisdiction of the employee relations department pursuant to section 3, subdivision 1.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 7. "Unclassified service" means all positions that are not in the classified service.

Sec. 3. [383D.23] JURISDICTION.

Subdivision 1. Except for the positions excluded under subdivisions 2 and 3, the jurisdiction of a department created pursuant to section 1 shall include every county public employment position for which the appointing authority is:

(a) the county board;

(b) the county welfare board;

(c) the county human services board;

(d) an elected county official;

(e) an appointed county department head; or

(f) a commission or board appointed by the county board. All positions within the jurisdiction of the department are classified.

Subd. 2. The following are excluded from the jurisdiction of the department and are unclassified:

(a) positions filled by election;

(b) positions for which a county or district court judge is the appointing authority;

(c) positions designated by the county board or by law as department heads and filled by the county board;

(d) positions designated by the county board or by law as department heads and filled by a board or commission appointed by the county board;

(e) one chief or principal assistant designated by each department head;

(f) one personal secretary designated by each elected department; and

(g) assistant county attorneys, student law clerks, or special investigators in the employ of the county attorney.

Subd. 3. At the option of the county board, the following may be excluded from the jurisdiction of the department:

(a) any positions subject to merit systems established or authorized pursuant to sections 12.22, subdivision 3, 144.071, 256.012, and 387.31 to 387.45 or federal law;

(b) positions designated as temporary or seasonal;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(c) special deputies and volunteers serving without pay;

(d) students in training; and

(e) positions that meet the following criteria:

(i) exclusion is consistent with other law relating specifically to that department;

(ii) the position is that of a supervisor or department assistant who would report directly to the department head or the chief deputy or principal assistant of the department head and be a part of the department head's management team; and

(iii) the duties of the position involve significant discretion and substantial involvement in the development, interpretation, and implementation of department policy.

The employee relations director shall certify whether the designation is consistent with the standards and criteria in this section. The county board may appeal certification decisions to the personnel board of appeals.

Subd. 4. An appointing authority may appoint an employee to the unclassified service in accordance with this subdivision. Positions in the unclassified service are not required to be filled by competitive examination, but shall be subject to an open application and screening process. An employee in the unclassified service is entitled to all fringe and compensation benefits afforded to similarly situated employees in the classified service such as, but not limited to, vacation leaves, holiday leave, health care insurance, and other benefits as determined by the county board.

Sec. 4. [383D.24] EMPLOYEE RELATIONS DIRECTOR APPOINTMENT.

After the county board has adopted the resolution authorized in section 1, it shall promptly appoint an employee relations director or assign the function of employee relations director to an existing officer or employee. If Dakota county elects to operate under an optional form of government pursuant to section 375A.01 to 375A.13, the authority to appoint the employee relations director shall be the same as for the appointment of other department heads. The terms and conditions of employment of the person appointed as director or assigned the function of director shall be established by the county board.

Sec. 5. [383D.25] DUTIES AND POWERS OF THE DIRECTOR.

Subdivision 1. PERSONNEL ADMINISTRATION RULES. The director shall prepare personnel rules, which shall be effective upon approval by the county board, to carry out sections 1 to 15. The rules shall provide, among other things, for:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) A classification plan and classification of positions within the jurisdiction of the employee relations department in accordance with the plan;

(b) Creation and maintenance of lists of eligibles. No name shall remain on an eligible list for more than two years;

(c) Certification of names to the appointing authority from the eligible list for appointment, promotion, or reemployment;

(d) Establishment of procedures to recruit, select, and advance personnel on the basis of relative ability, knowledge, and skills;

(e) Establishment of procedures to assure nondiscriminatory and fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religion;

(f) Establishment of procedures for suspension or termination or other disciplinary action, including procedures for appeal of actions by appointing authorities with respect to suspension or termination or other disciplinary action;

(g) Establishment of rules and procedures to authorize employees within the jurisdiction of the employee relations department to take a leave of absence from their duties to accept appointment to an unclassified position.

Subd. 2. ADMINISTRATION. The director shall administer the department. In addition to other duties imposed by sections 1 to 15, the director shall:

(a) Appoint, supervise, and direct the work of the employees of the department.

(b) Schedule and conduct hearings as required by rules adopted pursuant to sections 1 to 15 or at the direction of the county board.

(c) Provide for, formulate, and hold competitive examinations as required by rule to determine the qualifications of persons seeking employment in positions within the jurisdiction of the department.

(d) Investigate the administration and effect of rules made under sections 1 to 15 and report the findings and recommendations to the county board.

(e) Establish programs for training and continuing education of employees as deemed appropriate by the county board to improve the quality of service of employees holding positions within the jurisdiction of the department.

(f) Prepare a compensation plan and recommend a schedule of salary or wage rates for all county positions within the jurisdiction of the department for adoption by the county board.

Sec. 6. [383D.26] PAYROLLS APPROVED BY DIRECTOR.

No disbursing officer shall pay a salary or compensation for service to a person holding a position within the jurisdiction of a department established pursuant to sections 1 to 15 unless the payroll or account for the salary or compensation is certified by the employee relations director or an authorized

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

employee of the director that the person paid or compensated has been appointed and employed in accordance with sections 1 to 15 and rules adopted under them.

Sec. 7. [383D.27] CIVIL SERVICE AND MERIT SYSTEM RELATIONSHIPS.

Unless the county board has elected to exclude some or all positions otherwise subject to merit systems established under sections 12.22, subdivision 3, 144.071, 256.012, and 387.31 to 387.45, from the jurisdiction of the employee relations department, those sections and any rules promulgated under them shall be superseded as far as they are inconsistent with sections 1 to 15, but no position subject to merit systems established pursuant to sections 12.22, subdivision 3, 144.071, and 256.012, shall be removed from existing merit system coverage and placed under a department established pursuant to sections 1 to 15, until the department is certified in accordance with the United States office of personnel management's standards for a merit system of personnel administration. Nothing in section 387.43 shall be construed to prohibit the inclusion of sheriff's department personnel in a personnel system established pursuant to sections 1 to 15.

Sec. 8. [383D.28] VETERANS TO BE GIVEN PREFERENCE.

Nothing in sections 1 to 15 shall be construed to remove, limit, or extend the rights and preferences of veterans established by sections 197.455 and 197.46, except that the county board may enact rules relative to retirement age which shall apply to veterans on the same basis as other persons.

Sec. 9. [383D.29] COLLECTIVE BARGAINING RELATIONSHIPS.

Subdivision 1. For purposes of negotiating collective bargaining agreements and resolving grievances involving them pursuant to sections 179A.01 to 179A.25, the appointing authority and the county board shall be deemed the joint employer for positions within the jurisdiction of the employee relations department. Both shall be signatories to negotiated agreements or grievance settlements. If the county board and the appointing authority disagree as to the final terms of a negotiated agreement or grievance settlement, the decision of the county board shall be final and binding on behalf of the county as employer for all employees of the county, including employees under the jurisdiction of an appointing authority other than the county board.

Subd. 2. Any employee holding a position covered by sections 1 to 15 shall, upon the effective date of the establishment of a county personnel administration system, retain the position without further examination and suffer no loss in wages, seniority, or benefits as the result of the implementation of sections 1 to 15.

Sec. 10. [383D.30] PERSONNEL BOARD OF APPEALS.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. The county board shall appoint three persons to serve staggered terms as members of a personnel board of appeals. After the first appointments, successors shall serve for terms of three years each. Expiration dates for expiring terms shall be fixed by the county board and vacancies shall be filled by a majority vote of the county board for the unexpired term. Persons appointed to the personnel board of appeals shall not serve while holding any county office, while standing as a candidate for any county office, or while employed by the county. Each member shall be a resident of the county and shall forfeit office on becoming a nonresident.

Subd. 2. Compensation for members of the personnel board of appeals shall be set by the county board and each member shall be paid actual and necessary expenses.

Subd. 3. The personnel board of appeals shall organize by electing a chair and vice-chair. It shall develop rules of procedure for matters brought before it under sections 1 to 15 and rules promulgated under sections 1 to 15.

Sec. 11. [383D.31] DUTIES OF BOARD OF APPEALS.

Subdivision 1. JURISDICTION. The personnel board of appeals shall meet upon call of its chair or the employee relations director to make findings and report to the county board within 30 days of the filing of an appeal by an applicant, employee, or appointing authority in the following circumstances:

(a) Alleged arbitrary or capricious action by the county board with respect to final establishment of rules under sections 1 to 15.

(b) Alleged discrimination by the employee relations director or the director's employees in examination procedures or preparation of lists of eligible candidates, or discriminatory use of them by the appointing authority under sections 1 to 15 or rules promulgated under them.

(c) Alleged misinterpretation or evasion by the director or the county board of a provision of sections 1 to 15 or the rules promulgated under them in a manner seriously detrimental to the party bringing the appeal.

(d) Other matters of grievance as provided for in rules promulgated under sections 1 to 15.

Subd. 2. PROCEDURES. The personnel board of appeals shall establish procedures for appeals to the board.

Subd. 3. APPEAL FINDINGS. Findings and reports of the personnel board of appeals shall be submitted to the county board for consideration and action as deemed appropriate by the county board, but, to the extent required for employees of departments and agencies paid in full or in part by federal funds, the findings of the personnel board of appeals shall be final and binding if necessary to conform to a federal or state regulation affecting the department or position.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 12. [383D.32] JUDICIAL REVIEW.

An employee or appointing authority may appeal from an order of the board of appeals in accordance with chapter 14.

Sec. 13. [383D.33] APPROPRIATION BY COUNTY BOARD.

The county board may make appropriations as necessary to carry out sections 1 to 15.

Sec. 14. [383D.34] FEDERAL AID FOR MANPOWER SERVICES.

The county may receive financial assistance from agencies of the United States, and plan for, and carry out comprehensive manpower services as provided for in the Emergency Employment Act of 1971, as amended, and the Comprehensive Employment and Training Act of 1973, as amended.

Sec. 15. [383D.35] PROTECTION OF RIGHTS UNDER STATE AND FEDERAL LAWS.

Subdivision 1. Nothing in sections 1 to 14 shall be construed to permit or encourage any action or conduct prohibited by the Minnesota human rights act or prohibit recourse to any remedies provided in the Minnesota human rights act or any other state or federal law relating to equal employment opportunities. The provisions of those laws shall continue to apply to county employment generally, including positions excluded from the jurisdiction of the county personnel administration system.

Subd. 2. Nothing in sections 1 to 14 shall be construed to affect the rights and obligations of an employee or employer under sections 179A.01 to 179A.25, or the provisions of a contract or agreement executed pursuant to them.

Subd. 3. Any employee in the unclassified service may be demoted or removed from the employee's position in the unclassified service without cause and at the discretion and pleasure of the appointing authority, but, unless otherwise provided by law, no permanent county employee, who has successfully completed the employee's probationary period of employment with the county, shall be dismissed from employment with the county without the establishment of just cause. For purposes of this subdivision, just cause includes, but is not limited to, failure to perform assigned duties, substandard performance, misconduct, insubordination, and violation of written policies and procedures.

Sec. 16. [383D.45] HISTORICAL SOCIETY.

Dakota county, in addition to the authority provided by section 138.051, may provide financial and accounting services, including payroll management and records, to the Dakota county historical society. Notwithstanding this section or any other law to the contrary, Dakota county historical society employees shall not be deemed county employees for any other purpose.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 17. **EFFECTIVE DATE.**

This act is effective the day after the filing of a certificate of local approval in compliance with Minnesota Statutes, section 645.021, subdivision 3, by the Dakota county board.

Approved May 11, 1987

CHAPTER 75—H.F.No. 668

An act relating to health; extending and creating exceptions to the moratorium on hospital capacity expansion; amending Laws 1984, chapter 654, article 5, section 57, subdivisions 1 and 4.

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

Section 1. Laws 1984, chapter 654, article 5, section 57, subdivision 1, is amended to read:

Subdivision 1. **RESTRICTED CONSTRUCTION OR MODIFICATION.** ~~Until~~ Through June 30, ~~1987~~ 1990, the following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied prior to the date of enactment of this act if a timely appeal results in an order reversing the denial;

or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.