

CHAPTER 592—S.F.No. 2194

An act relating to authorizing two additional deputies in the state auditor's office; regulating certain investments; providing for certain audits, reports, and payments; prohibiting monetary compensation for unused vacation or sick leave to certain state and local officers; setting conditions for certain state laws; prohibiting the use of pictures of elected officials in certain local government publications; requiring that airline travel credit accrue to the issuing public body and requiring policies covering the benefits issued by airlines for travel paid for by public funds; amending Minnesota Statutes 1990, sections 6.02; 11A.24, subdivision 6; 13.76, by adding a subdivision; 15A.082, by adding a subdivision; 367.36, subdivision 1; 412.222; 462.396, subdivision 4; 471.49, by adding a subdivision; 471.66; 471.68, by adding a subdivision; 471.696; 471.697; 471.6985; 477A.017, subdivision 2; 609.415, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 279; and 609; repealing Minnesota Statutes 1991 Supplement, section 128B.10, subdivision 2.

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

Section 1. Minnesota Statutes 1990, section 6.02, is amended to read:

6.02 ~~DEPUTY~~ DEPUTIES, EMPLOYEES.

The state auditor shall appoint a deputy, who may perform all the duties of the office when the auditor is absent or disabled. The state auditor may employ and at pleasure dismiss two additional deputies and a private secretary. This section does not increase the complement of the state auditor.

Sec. 2. Minnesota Statutes 1990, section 11A.24, subdivision 6, is amended to read:

Subd. 6. **OTHER INVESTMENTS.** (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in clause (b), the state board may invest funds in:

(1) venture capital investment businesses through participation in limited partnerships and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;

(3) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940;

(4) resource investments through limited partnerships, private placements and corporations; and

(5) ~~debt obligations not subject to subdivision 3; and~~

New language is indicated by underline, deletions by ~~strikeout~~.

(6) international securities.

(b) The investments authorized in clause (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to clause (a) may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); and

(4) state board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board may not engage in any activity as a limited partner which creates general liability.

Sec. 3. Minnesota Statutes 1990, section 13.76, is amended by adding a subdivision to read:

Subd. 3. BUSINESSES SEEKING STATE INCENTIVES. Notwithstanding subdivision 1, any business seeking \$250,000 or more in financial assistance from the state of Minnesota in the form of grants, loans, or tax incentives shall make available for public inspection its audited financial statements for the three most recent years. These statements shall include all information that would be required by the United States Securities and Exchange Commission prior to any public stock offering. This subdivision does not apply to financial assistance sought from the iron range resources and rehabilitation board or from a political subdivision of the state, including home rule charter and statutory cities, towns, counties, and all agencies, commissions, and councils established under chapter 473, as well as any authority or agency of such a political subdivision.

Sec. 4. Minnesota Statutes 1990, section 15A.082, is amended by adding a subdivision to read:

Subd. 4a. CONSTITUTIONAL OFFICERS. No constitutional officer whose compensation is set under this section may receive monetary compensation for unused vacation or sick leave accruals.

Sec. 5. [279.025] PAYMENT OF DELINQUENT PROPERTY TAXES, SPECIAL ASSESSMENTS.

Payment of delinquent property tax and related interest and penalties and special assessments shall be paid to the county auditor with United States cur-

New language is indicated by underline, deletions by ~~strikeout~~.

rency or by check or money order drawn on a bank or other financial institution in the United States.

Sec. 6. Minnesota Statutes 1990, section 367.36, subdivision 1, is amended to read:

Subdivision 1. **INCUMBENT TREASURER; ANNUAL AUDIT.** In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined, the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor. Upon completion of an audit by a public accountant, the public accountant shall forward a copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23.

Sec. 7. Minnesota Statutes 1990, section 412.222, is amended to read:

412.222 PUBLIC ACCOUNTANTS IN STATUTORY CITIES.

The council of any city may employ public accountants on a monthly or yearly basis for the purpose of auditing, examining, and reporting upon the books and records of account of such city. For the purpose of this section ~~public accountants are defined as any individuals who for a period of five years prior to the date of such employment have been actively engaged exclusively in the practice of public accounting,~~ "public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23. All expenditures for these purposes shall be within the statutory limits upon tax levies in such cities.

Sec. 8. Minnesota Statutes 1990, section 462.396, subdivision 4, is amended to read:

Subd. 4. The commission shall keep an accurate account of its receipts and disbursement. Disbursements of funds of the commission shall be made by check signed by the chair or vice-chair or secretary of the commission and countersigned by the executive director or an authorized deputy thereof after such auditing and approval of the expenditure as may be provided by rules of the commission. The state auditor shall audit the books and accounts of the commission once each year, or as often as funds and personnel of the state auditor permit. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the auditors while actually engaged in making such examination. The general fund shall be credited with all collections made for any such examination. In lieu of an annual audit by the state

New language is indicated by underline, deletions by ~~strikeout~~.

auditor, the commission may contract with a certified public accountant for the annual audit of the books and accounts of the commission. If a certified public accountant performs the audit, the commission shall send a copy of the audit to the state auditor.

Sec. 9. Minnesota Statutes 1990, section 471.49, is amended by adding a subdivision to read:

Subd. 10. PUBLIC ACCOUNTANT. "Public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23.

Sec. 10. Minnesota Statutes 1990, section 471.66, is amended to read:

471.66 VACATIONS.

Subdivision 1. Hereafter The governing body of each city and town in the state of Minnesota, however organized, may by resolution or ordinance provide for the granting of vacations, with or without pay, to all its regularly employed employees or officers, upon such terms and under such conditions as said governing body may determine, and subject to such requirements as to length of service with such municipality as said governing body may require.

Subd. 2. Nothing in the foregoing provisions subdivision 1 shall be construed as retroactive in its purpose or intent so as to give the governing body of any such city or town the right to grant vacations based on service of its employees or officers rendered prior to the enactment of such ordinance or resolution.

Subd. 3. No elected official of a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state, may receive monetary compensation for unused vacation or sick leave accruals. Nothing in this subdivision shall restrict an elected official from taking vacation or sick leave time that may be provided for by resolution or ordinance of the governing body of a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state.

Sec. 11. Minnesota Statutes 1990, section 471.68, is amended by adding a subdivision to read:

Subd. 3. PICTURES PROHIBITED. When a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision of this state, issues a report or other publication for public distribution to inform the general public of the activities of the political subdivision, the report or publication must not include pictures of elected officials nor any other pictorial or graphic device that would tend to attribute the publication to an individual or groups of individuals instead of the political subdivision. Directories of public services provided by the political subdivision are exempt from this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 12. Minnesota Statutes 1990, section 471.696, is amended to read:

471.696 FISCAL YEAR; DESIGNATION.

Beginning in 1979, the fiscal year of a city and all of its funds shall be the calendar year, except that a city may, by resolution, provide that the fiscal year for city-owned nursing homes be the reporting year designated by the commissioner of human services. Beginning in 1994, the fiscal year of a town and all of its funds shall be the calendar year. The state auditor may upon request of a city ~~town~~ and a showing of inability to conform, extend the deadline for compliance with this section for one year; ~~except that a city may, by resolution, provide that the fiscal year for city owned nursing homes be the reporting year designated by the commissioner of human services.~~

Sec. 13. Minnesota Statutes 1990, section 471.697, is amended to read:

471.697 FINANCIAL REPORTING; AUDITS; CITIES AND TOWNS OF MORE THAN 2,500 POPULATION.

Subdivision 1. In any city with a population of more than 2,500 according to the latest federal census, or town with a population of more than 2,500 according to the latest federal census with an annual revenue of \$500,000 or more, the city clerk ~~or~~, chief financial officer, town clerk, or town clerk-treasurer shall:

(a) Prepare a financial report covering the city's or town's operations including operations of municipal hospitals and nursing homes, liquor stores, and public utility commissions during the preceding fiscal year after the close of the fiscal year ~~and~~. Cities shall publish the report or a summary of the report, in a form as prescribed by the state auditor, in a qualified newspaper of general circulation in the city or, if there is none, post copies in three of the most public places in the city, no later than 30 days after the report is due in the office of the state auditor. The report shall contain financial statements and disclosures which present the city's or town's financial position and the results of city or town operations in conformity with generally accepted accounting principles. The report shall include such information and be in such form as may be prescribed by the state auditor;

(b) File the financial report in the clerk's or financial officer's office for public inspection and present it to the city council or town board after the close of the fiscal year. One copy of the financial report shall be furnished to the state auditor after the close of the fiscal year; and

(c) Submit to the state auditor audited financial statements which have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may upon request of a city or town and a showing of inability to conform, extend the deadline. The state auditor may accept this report in lieu of the report required in clause (b) above.

New language is indicated by underline, deletions by ~~strikeout~~.

A municipal hospital or nursing home established before June 6, 1979 whose fiscal year is not a calendar year on August 1, 1980 is not subject to this subdivision but shall submit to the state auditor a detailed statement of its financial affairs audited by a certified public accountant, a public accountant or the state auditor no later than 120 days after the close of its fiscal year. It may also submit a summary financial report for the calendar year.

Subd. 2. The state auditor shall continue to audit cities of the first class pursuant to section 6.49.

Sec. 14. Minnesota Statutes 1990, section 471.6985, is amended to read:

471.6985 FINANCIAL STATEMENT PUBLICATION REPORTING; AUDITS; MUNICIPAL LIQUOR STORE.

Subdivision 1. Any city operating a municipal liquor store shall publish a balance sheet using generally accepted accounting procedures and a statement of operations of the liquor store within 90 days after the close of the fiscal year in the official newspaper of the city. The statement shall be headlined, in a type size no smaller than 18-point: "Analysis of(city)..... municipal liquor store operations for(year)...." and shall be written in clear and easily understandable language. It shall contain the following information: total sales, cost of sales, gross profit, profit as percent of sales, operating expenses, operating income, contributions to and from other funds, capital outlay, interest paid and debt retired. The form and style of the statement shall be prescribed by the state auditor. Nonoperating expenses may not be extracted on the reporting form prior to determination of net profits for reporting purposes only. Administrative expenses charged to the liquor store by the city must be actual operating expenses and not used for any other public purpose prior to the determination of net profits. The publication requirements of this section shall be in addition to any publication or posting requirements for financial reports contained in sections 471.697 and 471.698. The statement may at the option of the city council be incorporated into the reports published pursuant to sections 471.697 and 471.698, in accordance with a form and style prescribed by the state auditor.

Subd. 2. Any city operating a municipal liquor store with total annual sales in excess of \$350,000 shall submit to the state auditor audited financial statements for the liquor store that have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may extend the deadline upon request of a city and a showing of inability to conform. The state auditor may accept this report in lieu of the report required by subdivision 1.

Sec. 15. Minnesota Statutes 1990, section 477A.017, subdivision 2, is amended to read:

Subd. 2. **STATE AUDITOR'S DUTIES.** The state auditor shall prescribe uniform financial accounting and reporting standards in conformity with national standards to be applicable to cities and towns of more than 2,500 popu-

New language is indicated by underline, deletions by ~~strikeout~~.

lation and uniform reporting standards to be applicable to cities of less than 2,500 population.

Sec. 16. Minnesota Statutes 1990, section 609.415, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in sections 609.415 to 609.465, and 609.515,

(1) "Public officer" means:

(a) an executive or administrative officer of the state or of a county, municipality or other subdivision or agency of the state;

(b) a member of the legislature or of a governing board of a county, municipality, or other subdivision of the state, or other governmental instrumentality within the state;

(c) a judicial officer;

(d) a hearing officer;

(e) a law enforcement officer; or

(f) any other person exercising the functions of a public officer.

(2) "Public employee" means a person employed by or acting for the state or a county, municipality, or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a public officer.

(3) "Judicial officer" means a judge, court commissioner, referee, or any other person appointed by a judge or court to hear or determine a cause or controversy.

(4) "Hearing officer" means any person authorized by law or private agreement to hear or determine a cause or controversy who is not a judicial officer.

(5) "Political subdivision" means a county, town, statutory or home rule charter city, school district, special service district, or other municipal corporation of the state of Minnesota.

Sec. 17. [609.456] **REPORTING TO STATE AUDITOR REQUIRED.**

Whenever a public employee or public officer of a political subdivision discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or elected official shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the state auditor a detailed description of the alleged incident or incidents.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 18. PROPERTY TAXES AND SPECIAL ASSESSMENTS; HRA AGREEMENT.

If before August 1, 1990, a housing and redevelopment authority has entered into an agreement with the owner to improve the property in the redevelopment area, all property taxes and special assessments payable to the political subdivisions on that property in the redevelopment area are not subject to the limitation in Laws 1991, chapter 336, article 2, section 11, clause (9).

Sec. 19. NEWSPAPER; QUALIFICATION.

A newspaper otherwise in compliance with Minnesota Statutes, section 331A.02, subdivision 1, between September 1, 1991, and December 31, 1991, shall not be deemed to have lost its qualified status because any issue published between September 1, 1991, and December 31, 1991, failed to include the minimum number of column-inches required by Minnesota Statutes, section 331A.02, subdivision 1.

Sec. 20. AIRLINE TRAVEL CREDIT.

(a) Whenever public funds are used to pay for airline travel by an elected official or public employee, any credits or other benefits issued by any airline must accrue to the benefit of the public body providing the funding. In the event the issuing airline will not honor a transfer or assignment of any credit or benefit, the individual passenger shall report receipt of the credit or benefit to the public body issuing the initial payment within 90 days of receipt.

(b) By July 1, 1993, the appropriate authorities in the executive, legislative, and judicial branches of the state and the governing body of each political subdivision shall develop and implement policies covering accrual of credits or other benefits issued by an airline whenever public funds are used to pay for airline travel by a public employee or an elected or appointed official. The policies must apply to all airline travel, regardless of where or how tickets are purchased. The policies must include procedures for reporting receipt of credits or other benefits.

Sec. 21. REPEALER.

Minnesota Statutes 1991 Supplement, section 128B.10, subdivision 2, is repealed.

Sec. 22. EFFECTIVE DATE.

Section 19 is effective the day following enactment. Section 18 is effective June 30, 1992.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:32 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.