

Presented to the governor May 5, 1994

Signed by the governor May 9, 1994, 4:50 p.m.

CHAPTER 596—S.F.No. 2858

*An act relating to counties; Hennepin; changing the personnel system to a human resources system; making other changes to the system; amending Minnesota Statutes 1992, sections 383B.26; 383B.27; 383B.28; 383B.29; 383B.31; 383B.32, subdivisions 2, 3, and 4; 383B.34, subdivision 2; 383B.37, subdivision 1; 383B.38, subdivision 1; and 383B.39; repealing Minnesota Statutes 1992, sections 383B.33, subdivision 1; 383B.38, subdivisions 2, 3, and 4; and 383B.40.*

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

Section 1. Minnesota Statutes 1992, section 383B.26, is amended to read:

383B.26 ~~PERSONNEL~~ HUMAN RESOURCES SYSTEM; PURPOSE.

The purpose of sections 383B.26 to 383B.42 is to establish a ~~personnel~~ human resources board and a ~~personnel human resources and employee relations~~ department in the county of Hennepin to promote and improve the economy and effectiveness of the governmental departments under its jurisdiction by the improvement of methods of ~~personnel human resources~~ administration under the principles of a merit system of ~~personnel administration~~, which shall include a uniform system of job classifications, ~~uniform~~ procedures and standards for hiring, promotion and compensation administration.

Sec. 2. Minnesota Statutes 1992, section 383B.27, is amended to read:

383B.27 **DEFINITION OF TERMS.**

Subdivision 1. For the purposes of sections 383B.26 to 383B.42 and rules promulgated under them, unless the context clearly indicates that a different meaning is intended, the terms defined in this section have the meanings given them.

Subd. 2. "Board" means the county ~~personnel~~ human resources board.

Subd. 3. "Member" means a member of the county ~~personnel~~ human resources board.

Subd. 4. "Director" means the director of the department of ~~personnel~~ human resources and employee relations.

Subd. 5. "~~Personnel~~ Human resources department" means the ~~personnel~~ human resources director and the director's employees engaged in the administration of sections 383B.26 to 383B.42.

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Subd. 6. "County board" means the board of Hennepin county commissioners.

Subd. 7. "Appointing authority" means an elected official, the head of a ~~bureau~~, department, division, board, commission, person or group of persons who have the power by law, by resolution of the county board or by lawfully delegated authority to make appointments to positions in the county service within the scope of sections 383B.26 to 383B.42.

Subd. 8. "Classified service" means the service which includes all positions except those in the unclassified service under sections 383B.26 to 383B.42.

Subd. 9. "Position" means a group of current duties and responsibilities assigned or delegated by a ~~supervisor~~ an appointing authority.

Subd. 10. "Class" means one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title can be used with clarity to designate each position; that similar general qualifications are needed for the performance of the duties; that comparable selection procedures may be used to recruit employees; and that the same schedule of compensation shall be applied to all positions.

Subd. 11. "Allocation" means the assignment of an individual position to a class on the basis of the kind, difficulty and responsibility of the work performed in the position.

Subd. 12. "Reallocation" means a change in allocation of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of significant changes in the kind, difficulty or responsibility of the work performed in such position.

Subd. 13. "Classification" means the grouping of positions into classes with regard to duties and responsibilities.

Subd. 14. "Eligible" means the status of any person whose name is on the layoff, reinstatement, promotional, intern/trainee or ~~original entrant~~ open competitive list for a given class.

Subd. 15. "Permanent employee" means an employee in the classified service who has satisfactorily completed a probationary period.

Subd. 16. "Probationary period" means that part of the examining process following certification and appointment from a list of certified candidates, to enable the appointing authority to determine whether employees are fit and suitable for the position to which they have been appointed, transferred, or promoted. The appointing authority may discharge a newly appointed employee during the probationary period without specifying cause or granting a hearing, except as provided by section 197.46. The appointing authority may, during the probationary period, demote an employee appointed to a position as a result of a promotion without specifying cause or granting a hearing, except as provided by section 197.46. The employee so demoted shall be returned to a position in the class previously held by the affected employee. The appointing authority may, during the probationary period, return a transferred employee back to a position in the classification and organizational unit the employee previously

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held without specifying cause or granting a hearing, except as provided by section 197.46. When an employee has been transferred from one department to another and upon the request of the new appointing authority the employee may be required to serve a probationary period.

Subd. 17. "Classification plan" means a list of the classes of positions in the classified service by their official title.

Subd. 18. "Unclassified service" means those positions which are exempted from the jurisdiction of the ~~personnel~~ human resources board unless otherwise provided by sections 383B.26 to 383B.42.

Subd. 19. "Transfer" means a change by an employee from a position in the same class to a different department, ~~agency~~ or organizational unit or a change from a position in one class to a position in another class of comparable level in another department or in the same department.

Subd. 20. "Reassignment" means a change by an employee from one position to another position in the same class in the same organizational unit.

Sec. 3. Minnesota Statutes 1992, section 383B.28, is amended to read:

**383B.28 ~~PERSONNEL~~ HUMAN RESOURCES BOARD.**

Subdivision 1. **ESTABLISHMENT.** The Hennepin county ~~personnel~~ human resources board and ~~personnel human resources and employee relations~~ department are created.

Subd. 2. **APPOINTMENT; TERMS.** (a) The county board shall by majority vote appoint seven persons to serve for four-year terms. ~~Terms of office of persons who are members of the personnel board as of August 11, 1980 shall continue in accordance with the terms of their original appointment.~~ As the term of each member expires, the board of county commissioners shall by majority vote fill the vacancy for a term of four years.

(b) The expiration date of all expiring terms shall be January 2.

(c) Any vacancies shall be filled by majority vote of the county board for the unexpired term.

(d) Each member shall take an oath of office before assuming the duties of office.

(e) Each member shall hold office until a successor has been appointed and qualified.

(f) No person shall be appointed or be a member of the board while holding any public office or having filed as a candidate for any office.

(g) No person shall be appointed or be a member of the board while holding or within one year of holding employment with Hennepin county or a position in a political party, except as a political party delegate.

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(h) Each member of the board shall be a resident of the county and in the event the member becomes a nonresident, the member thereby forfeits the office.

(i) A board member may be removed from office by the county board for cause, after a copy of the charges has first been given to the member and opportunity of being publicly heard before the county board, upon not less than ten days written notice. A majority vote of the county board shall be required for removal.

Subd. 3. **COMPENSATION.** Compensation for members of the ~~personnel~~ human resources board shall be set by the county board. Members of the board shall be compensated at the rate not to exceed \$50 per day spent on board meetings and personnel activities when authorized by the board to represent the board. Expenses shall be allowed in the same manner and amount as received by county employees.

Subd. 4. **ORGANIZATION.** The board shall organize by electing one of its members as chair and one as vice-chair. The director shall serve as secretary.

Subd. 5. **MEETINGS.** The board shall maintain records and hold public meetings as required for the discharge of its duties.

Sec. 4. Minnesota Statutes 1992, section 383B.29, is amended to read:

**383B.29 DUTIES OF THE ~~PERSONNEL~~ HUMAN RESOURCES BOARD.**

Subdivision 1. **BOARD PROCEEDINGS.** When any member of the board is not present at the time a matter is submitted to the board such matter shall be deemed submitted to each member of the board with like effect as though each member of the board had been present at the time of submission of such matter. Whenever during the consideration of a matter which is before the board, there is a change in the personnel of the board, the matter shall be deemed submitted to the new member, or members, as though said new member, or members, had been a member of the board at the time of the submission of the matter.

No meetings of the board shall be held unless at least four members are present. A majority vote of all members shall constitute the decision of the board. The board shall keep records and minutes of its business and official actions which shall be open to public inspection subject to such reasonable rules as to time and place of inspection as the board may establish.

Subd. 2. **DUTIES.** The board shall:

(a) Establish rules for the classified service with the assistance of the director. All rules and amendments proposed by the board shall be subject to public hearing upon prior notice to department heads, employees, affected labor organizations, and the public, as the board may, by rule prescribe. The rules as approved by the majority vote of the board shall be submitted to the county

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board for approval or rejection. When approved, by majority vote and in the form of a written resolution, the rules shall have the force and effect of law. The rules may be amended and repealed with the consent of the county board in the same manner as provided for original adoption. The rules shall provide for:

(1) the rejection of otherwise eligible ~~candidates~~ applicants/candidates who fail to comply with the reasonable requirements of the director;

(2) examinations which shall be competitive and standardized and which may consist of any one or a combination of the following: written or oral tests of the subjective or objective type, physical tests, practical or demonstration tests, or evaluation of past training and experience. Oral tests, either of the question and answer type or the interview type may be used to test the candidates;

(3) the creation of eligible lists upon which shall be entered the names of successful candidates ~~in the order of their rank in the examination~~;

(4) the appointment of eligible candidates who have qualified through the examination process, or through a qualifying selection process pursuant to section 383B.31, clause (h), if the vacancy is not filled by recall from the layoff list, demotion, transfer, or reinstatement. The ~~seven~~ 20 persons receiving the highest examination scores when available shall be referred to department heads when a vacancy occurs, with waiver in extreme or unique conditions subject to six-sevenths approval of the board;

(5) ~~if two vacancies are to be filled by referral from an examination eligible list, the names of two additional candidates, when available, shall be certified and interviewed. If the total number of vacancies is greater than two, nine names plus two additional names for each vacancy over two will be certified and interviewed from the examination eligible list. if more than one vacancy is to be filled, additional names may be added to the certification list in accordance with the rules adopted under this subdivision;~~

(6) a period of probation during which period the probationer may be discharged or demoted, without right of appeal. The period of probation shall not exceed six months unless changed by six-sevenths approval of the board due to extreme or unique conditions;

(7) seasonal, provisional, temporary and emergency appointments. The appointments, except seasonal appointments, shall not exceed six calendar months in any 12-month period. Seasonal appointments shall not exceed nine calendar months in any 12-month period;

(8) transfers from other ~~merit systems~~ public employers or within county service; and reinstatement of persons who without fault or delinquency on their part are separated from the service or demoted;

(9) promotion based upon competitive examinations ~~and upon promotional ratings~~. Whenever practicable vacancies shall be filled by promotion;

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(10) suspensions without pay for no longer than 20 working days for disciplinary purposes; for leaves of absence with or without pay; for layoffs; for hours of employment; for vacations and sick leave; severance pay, and other benefits and emoluments as may improve the public service;

(11) discharge or demotion of a permanent employee only when the person has been presented with written charges and has been allowed a hearing ~~before the board~~ pursuant to section 383B.38; and

(12) the establishment of reasonable fees, not to exceed 50 percent of the actual cost, to be charged for the furnishing of a copy of the record, including a transcript of any testimony, of any hearing held before the board under sections 383B.26 to 383B.42; ~~when the hearing is appealable to the district court.~~

(b) Provide a compensation plan for county employees not represented by an exclusive bargaining representative to be presented to the county board for approval.

(c) Make investigations ~~either on petition of a citizen or~~ of its own motion concerning the enforcement and effect of sections 383B.26 to 383B.42, and the rules thereunder.

(d) Hear and decide appeals within the jurisdiction of the board, if there has been a preliminary showing to the board attorney that a rule violation has occurred. Any such board attorney ruling may be appealed to the board.

(e) ~~Make an annual report to the county board on the activities of the personnel department.~~

Subd. 3. **HEARING OFFICERS.** The board, with the assistance of the director, shall utilize and prescribe the duties of hearing officers, or contract with the office of hearing examiners pursuant to section 14.55. When it is determined that a hearing be held which requires a hearing officer, the director will first ascertain the availability and timeliness of scheduling the hearing through the office of hearing examiners pursuant to section ~~14.55~~, subdivision 8 14.55. If it is determined that a prompt hearing is not readily available through the office of hearing examiners, the board, with the assistance of the director, may then utilize an impartial hearing officer.

Sec. 5. Minnesota Statutes 1992, section 383B.31, is amended to read:

### 383B.31 DUTIES OF THE DIRECTOR.

The director as administrator of the ~~personnel~~ human resources and employee relations department shall cooperate with and assist department heads and elected officials in providing an effective ~~personnel~~ human resources program. The director shall direct and supervise all of the ~~personnel~~ human resources and employee relations department's administrative and technical activities in addition to the duties imposed on the director in sections 383B.26 to 383B.42. The director shall:

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(a) Attend the meetings of the board, act as its secretary and maintain its official records.

(b) Appoint the employees of the ~~personnel~~ human resources and employee relations department in accordance with and subject to the provisions of sections 383B.26 to 383B.42.

(c) Recommend rules and amendments to rules for the administration of sections 383B.26 to 383B.42.

(d) Prepare, recommend and maintain a classification plan which shall group all positions in the classified service into classes, based on their duties and responsibilities. The classification plan shall identify for each class a title, a statement of duties, authority and responsibilities and qualifications necessary for the ~~satisfactory performance of the duties of~~ the position. The classification plan shall be effective upon approval by the board and the county board. Periodic job audits shall be made of positions for the purpose of keeping the classification plan current with changes in work assignments.

(e) Prepare a compensation plan for the classified service. Compensation plans when approved by majority vote of the board shall be recommended to the county board who may approve or reject such plans or portions thereof.

(f) Establish programs for the training and education of employees to improve the quality of services rendered.

(g) Except as provided in clauses (h) and (i), develop and hold competitive examinations to determine the qualifications of persons seeking employment in any class and to establish lists of those passing such examinations.

(h) Develop a procedure and define the criteria for the selection and referral of qualified applicants to fill positions in ~~routine, service~~ classifications involving unskilled tasks or in classifications which require state licensure or certification to engage in the activity. The classifications shall be authorized by the board and county board. Applicants to fill vacancies in the classifications shall be exempt from ranking and certification provided for in section 383B.29, subdivision 2, clauses (a)(3), (4) and (5). The director shall refer all qualified applicants to the appointing authority having vacancies in the appropriate classifications.

(i) Establish alternative selection procedures to measure the ability of persons whose handicaps are so severe that the usual selection process cannot adequately predict job performance. Alternative selection procedures may include an on-the-job trial period not to exceed 640 hours to be paid or not by mutual agreement between the person applying for the position and the director. ~~During the trial period, the appointing authority will evaluate the applicant's ability to perform the work required by the specification for the classification. After evaluation, the appointing authority and the director must verify and attest that the applicant, except for compliance with the standard selection process, is able to perform the work required for the position. If the appointing authority and the~~

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~~director determine that the applicant is qualified to perform the work required, the director shall certify the name of the applicant to the appointing authority. The probationary period for the job class shall commence at the date of the hiring of the applicant following certification. Alternative procedures established by the director for the administration of this provision must be approved by the board.~~

(j) When a vacancy is to be filled, to certify to the appointing authority upon requisition, the names of the persons highest on the appropriate layoff list for the class. If there is no layoff list, the director shall certify those on the appropriate eligible list for the class. If there is no eligible list, the director may authorize temporary appointment pending establishment of an eligible list for the class.

(k) Maintain records necessary for the proper administration of sections 383B.26 to 383B.42.

(l) Provide a system for checking payrolls and accounts for the payment of compensation to employees in the classified and unclassified service so as to enable the director, upon evidence thereof, to certify or cause to be certified the persons whose names appear thereon have been employed or on authorized leave before payment may be lawfully made to such employees.

(m) Make investigations concerning the administration of sections 383B.26 to 383B.42 and rules made thereunder.

(n) Make investigations and reports required by the board or the county board and report thereon.

(o) Make an annual report to the county board and the human resources board on the activities of the human resources department.

Sec. 6. Minnesota Statutes 1992, section 383B.32, subdivision 2, is amended to read:

Subd. 2. **UNCLASSIFIED SERVICE.** The unclassified service comprises:

- (a) Officers chosen by election or appointment to fill an elective office.
- (b) Members of boards and commissions appointed by the county board.
- (c) Physicians, medical residents, interns, and students in training.
- (d) Nonsalaried attending medical staff.
- (e) Special deputies serving without pay.
- (f) Seasonal, temporary, provisional, intermittent, and emergency positions.
- (g) Positions funded by specific governmental or nongovernmental grants of intermittent or limited funding duration.

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(h) The head or principal administrative officer of a bureau or department appointed pursuant to sections 383B.101 to 383B.103; or appointed by the county board; or appointed for a term pursuant to statute. Notwithstanding any contrary provision of other law, any person coming within this provision, who, on August 11, 1980, is in the classified service, shall remain in the classified service until vacating the position. Thereafter, any appointment hereunder shall be in the unclassified service.

(i) Chief deputy or principal assistant and secretary for each elected official.  
 (j) Director of court services and chief municipal court probation officer.

(k) Examiner of titles and deputy examiners.

(l) Chief criminal deputy sheriff, a chief civil deputy sheriff, and a chief administrative deputy sheriff.

(m) Public defender.

(n) Administrative assistant to the district court administrator and court administrator of probate court.

(o) Court reporters and referees.

(p) Temporary judicial appointments performing a special function.

(q) County medical examiner.

(r) Superintendent of the adult corrections facility.

(s) Office staff appointed by the county administrator pursuant to sections 383B.101 to 383B.103.

(t) County administrator.

Sec. 7. Minnesota Statutes 1992, section 383B.32, subdivision 3, is amended to read:

Subd. 3. UNCLASSIFIED SERVICE, COMPENSATION. The director shall establish a compensation plan in accordance with section 383B.31, clause (e) for those employees in the unclassified service identified in subdivision 2, clauses (c), (d), (f), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s) and (t).

Sec. 8. Minnesota Statutes 1992, section 383B.32, subdivision 4, is amended to read:

Subd. 4. UNCLASSIFIED SERVICE, TENURE, BENEFITS. The positions in the unclassified service enumerated in subdivision 2, clauses (c), (d), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r) and (s) shall not have permanent tenure but shall have all other benefits provided for in sections 383B.26 to 383B.42. The term of office of any position established by another statute shall be as provided in it.

Sec. 9. Minnesota Statutes 1992, section 383B.34, subdivision 2, is amended to read:

Subd. 2. **ALLOCATIONS.** The director shall allocate positions in the classified service to one of the classes within the classification plan.

(a) When a position is established, the appointing authority shall notify the director who shall allocate that position to a class which will become effective immediately. The appointing authority may request reconsideration from the director in accordance with the rules of the board. The director shall notify the appointing authority of any final action.

(b) Whenever a position appears to be improperly allocated, the director shall, with or without the written request of a permanent employee or an appointing authority, investigate the position. Following that investigation the director may either reallocate the position or deny the request for reallocation. Notice of the action shall be given to the appointing authority and the affected employee. Unless otherwise provided in the notice, the decision of the director shall be immediately effective. The appointing authority or the affected employee may file a request for reconsideration with the director in accordance with the rules of the board. In all cases the burden of proof shall be upon the person requesting the reallocation.

(c) Except as provided the incumbent of a position which has been reallocated shall continue in the position only if the incumbent is eligible for and actually appointed to the position of the new class in accordance with the rules of the board governing promotion, transfers and demotion. If the incumbent is ineligible to continue in the position and the incumbent is not transferred, promoted or demoted, the layoff provisions of sections 383B.26 to 383B.42 shall apply. Personnel changes required by the reallocation of positions shall be completed in accordance with the rules of the board. Any permanent or probationary employee whose position is reallocated may compete, if qualified as defined in the minimum qualifications for the class specification, in an examination held to fill the reallocated position as provided in the rules of the board and shall be considered for appointment if the employee passes the examination, ~~regardless of ranking.~~

(d) When a position is reallocated to a class in a lower salary range, the director may give consideration to the employee's service, qualifications, or other considerations in determining whether the employee shall continue at the same rate of pay. Thereafter, as long as the employee remains in the same position, no salary increase shall be granted until the salary range of the class exceeds the employee's present salary.

(e) The board shall review an allocation upon the written request of the appointing authority or affected employee on the grounds that the action of the director was not in accordance with sections 383B.26 to 383B.42.

The director shall submit the record upon which the action was taken.

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Thereafter the board may sustain, reverse, or modify the action of the director, or request further evidence from the parties. The appointing authority, subject to county board approval, or any employee may petition the district court for a review and determination of any alleged arbitrary or capricious action on the part of the ~~personnel~~ human resources board involving allocation.

Sec. 10. Minnesota Statutes 1992, section 383B.37, subdivision 1, is amended to read:

Subdivision 1. No persons shall interfere with the rights of any person in the examination process, or falsely mark, grade, or report the examination or standing of any person examined or aid in so doing, or furnish to any person, except in answer to inquiries of the ~~personnel~~ human resources board, any information for the purpose of changing the rating of any person. No applicant or employee shall falsify an application or record for the purpose of improving prospects for employment. No person shall by means of threats or coercion induce or attempt to induce any person holding a position in the classified service to resign. A violation of this subdivision is cause for dismissal, other discipline, or disqualification from the classified service of the county. In addition to other legal remedies, violations may be enjoined.

Sec. 11. Minnesota Statutes 1992, section 383B.38, subdivision 1, is amended to read:

Subdivision 1. **SEPARATION.** No permanent employee in the classified service shall be suspended, demoted, or discharged except for just cause.

In case of any action under this section, the employee shall, before the action is taken, be furnished with a written statement, setting forth the reasons for the disciplinary action. The employee shall be permitted five work days' time to reply in writing or to meet with the ~~appointing authority~~ department head or designee. A copy of the statement charging the employee shall be filed with the director along with the employee's reply, if any.

Subd. 1a. APPEAL. (a) Any permanent employee in the classified service who is discharged, demoted or suspended pursuant to rules promulgated hereunder, shall be notified by the effective date of the action of the right to appeal as provided for by the rules to the ~~board~~ chief administrative law judge of the office of administrative hearings. Action of the ~~appointing authority~~ department head shall be final if no written notice of appeal is made to filed with the board chief administrative law judge of the office of administrative hearings and served upon the director and the department head within 30 14 calendar days after the effective date of the action.

(b) A permanent employee who elects to challenge a discharge, demotion, or suspension through a grievance procedure under a collective bargaining agreement under sections 179.35 to 179.39 or 179A.20 and 179A.21, may not also challenge the same action through an appeal to the chief administrative law judge of the office of administrative hearings. Except as provided by section 197.46, a permanent employee may challenge a discharge or demotion through either a grievance procedure under a collective bargaining agreement, or an

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appeal to the chief administrative law judge of the office of administrative hearings, but not through both procedures.

(c) Within ten days of receipt of the employee's written notice of appeal, the chief administrative law judge shall assign an administrative law judge to hear the appeal. The employee or department head or their attorney may, within ten days after receipt of the notice of assignment, make and serve on the other party and file with the office of administrative hearings a notice to remove as provided in Rule 63.03 of the Rules of Civil Procedure. Upon the filing of a notice to remove, the chief administrative law judge shall assign another administrative law judge to hear the appeal.

(d) The hearing shall be conducted under the contested case provisions of chapter 14 and the procedural rules adopted by the chief administrative law judge, except that Minnesota Rules, part 1400.6700, subparts 2 and 3, do not apply and discovery is limited to the exchange of relevant documentation, witness lists, and proposed exhibits.

(e) If the administrative law judge finds, based on the record, that the action appealed was not taken by the department head for just cause, the employee shall be reinstated to the position, or an equal position within the same department, without loss of pay. If the administrative law judge finds that just cause exists for the disciplinary action, it shall affirm or uphold the action of the department head, or, if the employee has asserted and the hearing record establishes extenuating circumstances, the administrative law judge may reinstate the employee, with full, partial, or no pay, or may modify the department head's action by substituting a lesser disciplinary action. The administrative law judge's order is the final decision. The administrative law judge's order may be appealed according to sections 14.63 to 14.68 by the employee, or by the department head upon approval of the county board. Settlement of the entire dispute by mutual agreement is encouraged at any stage of the proceedings. Any settlement agreement is final and binding when agreed to by all parties. If an appeal to the office of administrative hearings has been made, the settlement agreement shall be submitted to the administrative law judge. Except as provided in collective bargaining agreements, the operating department shall bear the costs of the administrative law judge for hearings provided for in this section.

Sec. 12, Minnesota Statutes 1992, section 383B.39, is amended to read:

#### **383B.39 VETERANS TO BE GIVEN PREFERENTIAL RATING.**

In all examinations veteran's preference shall be granted to every person who is a veteran as defined in ~~Minnesota Statutes 1961, section 197.45~~ 197.447. The provisions of section 383B.40 shall apply to all veterans.

#### **Sec. 13. REPEALER.**

Minnesota Statutes 1992, sections 383B.33, subdivision 1; 383B.38, subdivisions 2, 3, and 4; and 383B.40, are repealed.

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Presented to the governor May 5, 1994

Signed by the governor May 6, 1994, 11:55 a.m.

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CHAPTER 597—H.F.No. 2951

VETOED

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CHAPTER 598—S.F.No. 1735

*An act relating to children; modifying certain provisions concerning foster care and adoption; amending Minnesota Statutes 1992, section 260.141, subdivision 1; Minnesota Statutes 1993 Supplement, sections 245A.03, subdivisions 2 and 2a; 257.071, subdivision 3; 257.072, subdivision 9; 259.255; and 260.191, subdivision 3b.*

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

Section 1. Minnesota Statutes 1993 Supplement, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **EXCLUSION FROM LICENSURE.** Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a foster care placement made by a county welfare board or agency, or a licensed child placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education in a school as defined in section 120.101, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of education;

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