

Presented to the governor May 23, 1995

Signed by the governor May 25, 1995, 2:47 p.m.

CHAPTER 239—S.F.No. 557

An act relating to employment; authorizing the legislative commission on employee relations to modify compensation for certain managerial positions in the higher education board; modifying provisions relating to arbitrators; ratifying certain labor agreements; amending Minnesota Statutes 1994, sections 3.855, subdivision 3; 179A.04, subdivision 3; and 179A.16, subdivisions 6, 7, and 8.

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

Section 1. Minnesota Statutes 1994, section 3.855, subdivision 3, is amended to read:

Subd. 3. **OTHER SALARIES AND COMPENSATION PLANS.** The commission shall also:

(a) (1) review and approve, reject, or modify a plan for compensation, and terms and conditions of employment prepared and submitted by the commissioner of employee relations under section 43A.18, subdivision 2, covering all state employees who are not represented by an exclusive bargaining representative and whose compensation is not provided for by chapter 43A or other law;

(b) (2) review and approve, reject, or modify a plan for total compensation and terms and conditions of employment for employees in positions identified as being managerial under section 43A.18, subdivision 3, whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A;

(c) (3) review and approve, reject, or modify recommendations for salaries submitted by the governor under section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081;

(d) (4) review and approve, reject, or modify recommendations for salaries of officials of higher education systems under section 15A.081, subdivision 7b; and

(e) (5) review and approve, reject, or modify plans for compensation, terms, and conditions of employment proposed under section 43A.18, ~~subdivision~~ subdivisions 3a and 4.

Sec. 2. Minnesota Statutes 1994, section 179A.04, subdivision 3, is amended to read:

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Subd. 3. **OTHER DUTIES.** (a) The commissioner shall:

(a) (1) provide mediation services as requested by the parties until the parties reach agreement; ~~The commissioner, and~~ and may continue to assist parties after they have submitted their final positions for interest arbitration;

(b) (2) issue notices, subpoenas, and orders required by law to carry out duties under sections 179A.01 to 179A.25;

(c) ~~maintain a list of arbitrators for referral to employers and exclusive representatives for the resolution of grievance or interest disputes;~~

(d) (3) assist the parties in formulating petitions, notices, and other papers required to be filed with the commissioner;

(4) conduct elections;

(e) (5) certify the final results of any election or other voting procedure conducted under sections 179A.01 to 179A.25;

(f) (6) adopt rules relating to the administration of this chapter; and the conduct of hearings and elections;

(g) (7) receive, catalogue, ~~and file, and make available to the public~~ all decisions of arbitrators and panels authorized by sections 179A.01 to 179A.25, all grievance arbitration decisions, and the commissioner's orders and decisions. ~~All decisions catalogued and filed shall be readily available to the public;~~

(h) (8) adopt, subject to chapter 14, a grievance procedure ~~to fulfill that fulfills~~ the purposes of section 179A.20, subdivision 4. ~~The grievance procedure shall, does not provide for the services of the bureau of mediation services. The grievance procedure shall be and is~~ available to any employee in a unit not covered by a contractual grievance procedure;

(i) ~~conduct elections;~~

(j) (9) maintain a schedule of state employee classifications or positions assigned to each unit established in section 179A.10, subdivision 2;

(k) (10) collect ~~such fees as are~~ established by rule for empanelment of persons on the labor arbitrator roster maintained by the commissioner or in conjunction with fair share fee challenges;

(l) (11) provide technical support and assistance to voluntary joint labor-management committees established for the purpose of improving relationships between exclusive representatives and employers, at the discretion of the commissioner;

(m) (12) provide to the parties a list of arbitrators as required by section 179A.16, subdivision 4; and

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(13) maintain a list of up to 60 arbitrators for referral to employers and exclusive representatives for the resolution of grievance or interest disputes. Each person on the list must be knowledgeable about collective bargaining and labor relations in the public sector, well versed in state and federal labor law, and experienced in and knowledgeable about labor arbitration. To the extent practicable, the commissioner shall appoint members to the list so that the list is gender and racially diverse.

~~(a)~~ adopt, subject to chapter 14; ~~(b)~~ The commissioner shall make available uniform baseline determination documents and uniform collective bargaining agreement settlement documents applicable to all negotiations between exclusive representatives of appropriate units of public employees and public employers other than townships and prescribe procedures and instructions for completion of the documents. The commissioner must shall, at a minimum, include these individual elements in the uniform baseline determination document: the costs of any increases to the wage schedule; the costs of employees moving through the wage schedule; costs of medical insurance; costs of dental insurance; costs of life insurance; lump sum payments; shift differentials; extracurricular activities; longevity; employer contributions to social security; employer contributions to state or local retirement plans; and contributions to a deferred compensation account. The calculation of the base year must be based on an annualization of the costs provided in the base year contract. The documents must be in the same form as presented by the commissioner to the legislative commission on employee relations on February 17, 1994. A completed uniform collective bargaining agreement settlement document must be presented to the public employer at the time it ratifies a collective bargaining agreement and must be available afterward for inspection during normal business hours at the principal administrative offices of the public employer; and. The commissioner shall provide training and technical assistance to public employers who request it in completing the uniform baseline determination documents and uniform collective bargaining agreement settlement documents. The commissioner shall at least annually inform public employers of their obligations to complete and post these forms and to submit copies of the completed forms to the legislative commission on employee relations.

~~(c)~~ (c) From the names provided by representative organizations, the commissioner shall maintain a list of arbitrators to conduct teacher discharge or termination hearings according to section 125.12 or 125.17. The persons on the list shall must meet at least one of the following requirements:

- (1) be a former or retired judge;
- (2) be a qualified arbitrator on the list maintained by the bureau;
- (3) be a present, former, or retired administrative law judge; or
- (4) be a neutral individual who is learned in the law and admitted to practice in Minnesota, who is qualified by experience to conduct these hearings, and who is without bias to either party.

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Each year, the Minnesota education association shall provide a list of seven names, the Minnesota federation of teachers a list of seven names, and the Minnesota school boards association a list of 14 names of persons to be on the list. The commissioner may adopt rules about maintaining and updating the list.

Sec. 3. Minnesota Statutes 1994, section 179A.16, subdivision 6, is amended to read:

Subd. 6. **POWERS OF THE ARBITRATOR OR PANEL.** The arbitrator or panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence ~~which~~ that relates to any matter involved in any dispute before it. The arbitrator or panel may administer oaths and affidavits and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any hearing. However, any hearing ~~shall~~ must be held in the county where the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or where the person who refuses to obey is found, or resides, or transacts business ~~shall~~, on application of the arbitrator or panel, ~~have~~ has jurisdiction to issue an order requiring the person to appear before the panel, to produce evidence, or to give testimony. Failure to obey the order may be punished by the court as a contempt. Posthearing briefs, if any, must be received by the arbitrator within 14 days of the hearing.

Sec. 4. Minnesota Statutes 1994, section 179A.16, subdivision 7, is amended to read:

Subd. 7. **DECISION BY THE ARBITRATOR OR PANEL.** The decision ~~shall~~ must be issued by the arbitrator or a majority vote of the panel. The decision ~~shall~~ must resolve the issues in dispute between the parties as submitted by the commissioner. For principals and assistant principals, the arbitrator or panel ~~shall be~~ is restricted to selecting between the final offers of the parties on each impasse item. For other employees, if the parties agree in writing, the arbitrator or panel ~~shall be~~ is restricted to selecting between the final offers of the parties on each impasse item, or the final offer of one or the other parties in its entirety. In considering a dispute and issuing its decision, the arbitrator or panel shall consider the statutory rights and obligations of public employers to efficiently manage and conduct their operations within the legal limitations surrounding the financing of these operations. The decision ~~shall be~~ is final and binding on all parties.

The arbitrator or panel shall render its decision within 30 days from the date that all arbitration proceedings have concluded. ~~This deadline may be extended only with the approval of the commissioner. The arbitrator or panel may not request that the parties waive their right to have the decision rendered within 30 days, unless the commissioner grants an extension of the deadline. The commissioner shall remove from the roster for six months the name of any~~

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arbitrator who does not render the decision within 30 days or within the extension granted by the commissioner. The commissioner shall adopt rules establishing criteria to be followed in determining whether an extension should be granted. The decision must be for the period stated in the decision, except that decisions determining contracts for teacher units are effective to the end of the contract period determined by section 179A.20.

The arbitrator or panel shall send its decision to the commissioner, the appropriate representative of the public employer, and the employees. If any issues submitted to arbitration are settled voluntarily before the arbitrator or panel issues a decision, the arbitrator or panel shall report the settlement to the commissioner.

The parties may, at any time before or after issuance of a decision of the arbitrator or panel, agree upon terms and conditions of employment regardless of the terms and conditions of employment determined by the decision. The parties shall, if so agreeing, execute a written contract or memorandum of contract.

Sec. 5. Minnesota Statutes 1994, section 179A.16, subdivision 8, is amended to read:

Subd. 8. **PAYMENT OF THE ARBITRATOR OR PANEL DATABASE; FEES, CHARGES, AND PER DIEMS.** ~~The arbitrator or panel members shall be paid actual and necessary traveling and other expenses incurred in the performance of their duties plus an allowance of \$180 for each day or part of a day spent considering a dispute.~~ The commissioner shall maintain a database of all fees, charges, and per diems charged by each arbitrator. The database must include the total charges imposed by the arbitrator in the previous six interest arbitration cases. For each arbitration decision rendered by an arbitrator, the arbitrator shall submit a copy of the award and a description of all fees, charges, and per diems assessed to the parties to the commissioner. Data from this database must be available to the public. All costs of the panel ~~shall~~ must be shared equally by the parties to the dispute.

Sec. 6. RATIFICATIONS.

Subdivision 1. STATE UNIVERSITY FACULTY. The labor agreement between the state of Minnesota and inter-faculty organization, approved by the legislative commission on employee relations on August 22, 1994, is ratified.

Subd. 2. STATE UNIVERSITY ADMINISTRATIVE AND SERVICE FACULTY. The labor agreement between the state of Minnesota and the Minnesota state university association of administrative and service faculty, approved by the legislative commission on employee relations on August 22, 1994, is ratified.

Subd. 3. STATE UNIVERSITY EXCLUDED ADMINISTRATORS. The compensation plan for excluded administrators of the state university system,

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approved by the legislative commission on employee relations on August 22, 1994, is ratified.

Subd. 4. TECHNICAL COLLEGE UNCLASSIFIED UNREPRESENTED EMPLOYEES. The compensation plan for unclassified, unrepresented employees of the technical college board, approved by the legislative commission on employee relations on August 22, 1994, is ratified.

Subd. 5. COMMUNITY COLLEGE UNCLASSIFIED UNREPRESENTED ADMINISTRATORS. The compensation plan for unrepresented, unclassified administrators in the community college system, approved by the legislative commission on employee relations on December 13, 1994, is ratified.

Subd. 6. HIGHER EDUCATION BOARD EXCLUDED ADMINISTRATORS. The compensation plan for excluded administrators of the higher education board, as amended and approved by the legislative commission on employee relations on December 13, 1994, is ratified, except that article 1.9, subdivision 4, paragraph (b), as it pertains to technical college administrators, is amended to provide that the employer shall contribute an amount equal to the lesser of 90 percent of the dependent premium of the lowest cost carrier, or the actual dependent premium of the health plan chosen by the excluded administrator. Excluded administrators appointed by the higher education board may not receive any increase in salary or be promoted to a higher position until after the board of trustees of the Minnesota state colleges and universities has assigned the position or class to an appropriate salary range. When the board of trustees next submits the compensation plan for excluded managers to the legislative commission on employee relations for interim approval, the plan must include the assignment of all classes and positions to specific salary ranges. The board of trustees has the authority to assign the appropriate salary and salary range for all positions covered in this plan.

Subd. 7. MANAGERIAL PLAN. The amendments to the managerial plan, approved by the commission on December 13, 1994, are ratified.

Subd. 8. NONMANAGERIAL, UNREPRESENTED EMPLOYEES PLAN. The amendments to the plan for nonmanagerial, unrepresented employees, as approved by the legislative commission on employee relations on December 13, 1994, is ratified.

Sec. 7. ARBITRATORS ROSTER; ABOLISHED.

The roster of arbitrators maintained by the bureau of mediation services is abolished January 1, 1996. Appointments to a new roster must be made in accordance with Minnesota Statutes, section 179A.04, subdivision 3, paragraph (a), clause (13).

Sec. 8. EFFECTIVE DATE.

Section 6 is effective the day following final enactment.

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Presented to the governor May 23, 1995

Signed by the governor May 25, 1995, 8:45 a.m.

CHAPTER 240—S.F.No. 507

An act relating to the environment; modifying the petroleum tank release cleanup program; providing for payment for a site assessment prior to tank removal; modifying reimbursement provisions; adding requirements for tank monitoring; establishing registration requirements; modifying program and liability provisions; clarifying liability for oil discharges; amending Minnesota Statutes 1994, sections 88.171, subdivision 2; 115C.02, by adding subdivisions; 115C.03, subdivision 10; 115C.09, subdivisions 2, 3, 3b, and 3c; 115C.11, subdivisions 1 and 2; 115C.12; 115C.13; 115E.01, by adding subdivisions; 115E.04, subdivision 2; 115E.06; and 115E.061; proposing coding for new law in Minnesota Statutes, chapters 115C; and 116.

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

ARTICLE 1

Section 1. Minnesota Statutes 1994, section 115C.02, is amended by adding a subdivision to read:

Subd. 11a. PREREMOVAL SITE ASSESSMENT. "Preremoval site assessment" means actions defined in section 115A.092 which are taken by a registered consultant or the consultant's subcontractor prior to the removal of a petroleum storage tank in order to determine whether a release has occurred in the area immediately surrounding the tank.

Sec. 2. Minnesota Statutes 1994, section 115C.02, is amended by adding a subdivision to read:

Subd. 12a. RESIDENTIAL SITE. "Residential site" means a site containing a residence used for permanent habitation by an applicant. A residence may be part of a multipurpose or multidwelling building, but shall not include multi-dwelling units which contain more than two separate residences, or buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

Sec. 3. Minnesota Statutes 1994, section 115C.03, subdivision 10, is amended to read:

Subd. 10. ~~RETENTION OF~~ RETENTION OF CORRECTIVE ACTION RECORDS. A per-

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