

- (8) section 609.79;
- (9) section 609.795;
- (10) section 609.582; or
- (11) section 609.595; or
- (12) section 609.765.

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern.

Sec. 10. EFFECT ON RULES OF CRIMINAL PROCEDURE.

Rules 27 and 28 of the Rules of Criminal Procedure are superseded to the extent they conflict with Minnesota Statutes, section 244.09, subdivision 5, or 244.11.

Sec. 11. AMENDMENT TO SENTENCING GUIDELINES.

(a) Except as provided in paragraph (b), the sentencing guidelines commission may not amend the sentencing guidelines by adding a plea agreement to the list of factors that should not be used as a reason for departure from the presumptive sentence under the guidelines.

(b) The commission shall study the advisability of allowing a plea agreement to be used as a reason for a departure from a presumptive sentence. By December 15, 1997, the commission shall report its findings and recommendations to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding. If the commission determines that it would be advisable to modify the guidelines regarding the use of plea agreements for departures, the commission shall submit its proposed modification to the legislature before January 1 of the year the commission wishes to make the change. The modification shall be effective only if the legislature, by law, approves the modification.

Sec. 12. EFFECTIVE DATES.

Sections 1, 6 to 9, and 11 are effective the day following final enactment and apply to crimes committed on or after that date. Sections 2 to 5 and 10 are effective August 1, 1997, and apply to crimes committed on or after that date.

Presented to the governor May 2, 1997

Signed by the governor May 6, 1997, 11:07 a.m.

CHAPTER 97—S.F.No. 512

An act relating to employment; making technical and administrative changes in the department of employee relations; modifying provisions governing state employment; modifying terms of certain pilot projects; requiring a study and report; amending Minnesota Statutes 1996, sections

New language is indicated by underline, deletions by strikeout.

13.67; 15.53, subdivision 2; 43A.04, subdivision 1; 43A.07, subdivision 5; 43A.27, subdivision 3; and 43A.30, subdivisions 4 and 5; Laws 1993, chapter 301, section 1, subdivision 4; and Laws 1995, chapter 248, articles 12, section 2; and 13, sections 2, subdivisions 2, 5, and 6; and 3, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 15; and 43A; repealing Minnesota Statutes 1996, section 43A.182; and Laws 1995, chapter 248, article 10, section 12.

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

Section 1. Minnesota Statutes 1996, section 13.67, is amended to read:

13.67 EMPLOYEE RELATIONS DATA.

The following data collected, created, or maintained by the department of employee relations are classified as nonpublic data pursuant to section 13.02, subdivision 9:

(a) The commissioner's plan prepared by the department, pursuant to section 3.855, which governs the compensation and terms and conditions of employment for employees not covered by collective bargaining agreements until the plan is submitted to the legislative commission on employee relations;

(b) Data pertaining to grievance or interest arbitration that has not been presented to the arbitrator or other party during the arbitration process;

(c) Notes and preliminary drafts of reports prepared during personnel investigations and personnel management reviews of state departments and agencies;

(d) The managerial plan prepared by the department pursuant to section 43A.18 that governs the compensation and terms and conditions of employment for employees in managerial positions, as specified in section 43A.18, subdivision 3, until the plan is submitted to the legislative commission on employee relations; and

(e) Claims experience and all related information received from carriers and claims administrators participating in either the state group insurance plan, the Minnesota employee insurance program, the state workers' compensation program, or the public employees insurance program as defined in chapter 43A, and survey information collected from employees and employers participating in these plans and programs, except when the department determines that release of the data will not be detrimental to the plan or program.

Sec. 2. Minnesota Statutes 1996, section 15.53, subdivision 2, is amended to read:

Subd. 2. PERIOD OF ASSIGNMENT. The period of individual assignment or detail under an interchange program shall not exceed 24 months, nor shall any person be assigned or detailed for more than 24 months during any 36-month period, except when the assignment or detail is made to coincide with an unclassified appointment under section 15.06. However, the head of an agency may extend the period of assignment for not more than two additional years. Details relating to any matter covered in sections 15.51 to 15.57 may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency.

Sec. 3. [15.0594] COMMISSIONER'S APPROVAL REQUIRED.

No person may be employed or consultant retained by an entity created under section 15.0593 without written approval of the commissioner of the department of employee relations.

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

Sec. 4. Minnesota Statutes 1996, section 43A.04, subdivision 1, is amended to read:

Subdivision 1. **STATEWIDE LEADERSHIP.** (a) The commissioner is the chief personnel and labor relations manager of the civil service in the executive branch.

Whenever any power or responsibility is given to the commissioner by any provision of Laws 1981, chapter 210, unless otherwise expressly provided, the power or authority applies to all employees of agencies in the executive branch and to employees in classified positions in the office of the legislative auditor, the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. Unless otherwise provided by law, the power or authority does not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner has access to all public and private personnel data kept by appointing authorities that will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of Laws 1981, chapter 210, and may order any remedial actions consistent with law. The commissioner, at the request of an agency, shall provide assistance in employee misconduct investigations. The commissioner shall have the right to assess from the requesting agency, any costs incurred while assisting the agency in the employee misconduct investigation. Money received by the commissioner under this paragraph is appropriated to the commissioner for purposes of this paragraph.

(d) The commissioner has sole authority to settle state employee workers' compensation claims.

(e) The commissioner may assess or establish and collect premiums from all state entities to cover the costs of programs under sections 15.46 and 176.603.

Sec. 5. [43A.044] **HAZARD IDENTIFICATION AND ACCIDENT PREVENTION.**

(a) The commissioner of the department of employee relations must operate a program of occupational hazard identification and accident prevention for state agencies and state employees, and shall provide the staff, equipment, and facilities needed for the program. The program must be offered to all state agencies through the agency safety contact or other designee; is consultative in nature; and must assist state agencies with the goal of providing a safe work environment, safe work methods, and hazard identification.

(b) The commissioner must cooperate with the department of labor and industry, department of health, and department of administration as well as other private and public community agencies to assist in the objective of hazard identification and accident prevention.

Sec. 6. Minnesota Statutes 1996, section 43A.07, subdivision 5, is amended to read:

Subd. 5. **LEAVES TO ACCEPT UNCLASSIFIED APPOINTMENTS.** An employee who is may be granted a leave of absence from a position in the classified service to accept a position in the unclassified service ~~shall retain an inactive classified service~~

New language is indicated by underline, deletions by strikeout.

status. Upon request, during the unclassified appointment or within 60 days of the end of the unclassified appointment, the employee shall be reappointed in the agency from which the employee was granted the leave, to a classified position comparable to that held immediately prior to being appointed to the unclassified position.

Sec. 7. Minnesota Statutes 1996, section 43A.27, subdivision 3, is amended to read:

Subd. 3. **RETIRED EMPLOYEES.** A person may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages if the person is:

(1) a retired employee of the state or an organization listed in subdivision 2 or section 43A.24, subdivision 2, who receives, at separation of service:

(i) is immediately eligible to receive an annuity under a state retirement program sponsored by the state or such organization of the state and immediately meets the age and service requirements in section 352.115, subdivision 1; and

(ii) has five years of service or meets the service requirement of the collective bargaining agreement or plan, whichever is greater; or

(2) a retired employee of the state who is at least 50 years of age and has at least 15 years of state service may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages that are.

The commissioner shall offer at least one plan which is actuarially equivalent to those made available through collective bargaining agreements or plans established pursuant to section 43A.18 to employees in positions equivalent to that from which retired. A spouse of a deceased retired employee who received an annuity under a state retirement program may purchase the coverage listed in this subdivision if the spouse was a dependent under the retired employee's coverage at the time of the employee's death. Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Until the retired employee reaches age 65, the retired employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. Coverage for retired employees and their dependents may not discriminate on the basis of evidence of insurability or preexisting conditions unless identical conditions are imposed on active employees in the group that the employee left. Appointing authorities shall provide notice to employees no later than the effective date of their retirement of the right to exercise the option provided in this subdivision. The retired employee must notify the commissioner or designee of the commissioner within 30 days after the effective date of the retirement of intent to exercise this option.

Sec. 8. Minnesota Statutes 1996, section 43A.30, subdivision 4, is amended to read:

Subd. 4. **EMPLOYEE INSURANCE TRUST FUND.** The commissioner of employee relations may direct that all or a part of the amounts paid for life insurance, hospital, medical, and dental benefits, and optional coverages authorized for eligible employees and other eligible persons be deposited by the state in an employee insurance trust fund in the state treasury, from which the approved claims of eligibles are to be paid. Investment income and investment losses attributable to the investment of the fund shall be credited to the fund. There is appropriated from the fund to the commissioner amounts needed to pay the approved claims of eligibles, related service charges, insurance pre-

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miums, and refunds. The commissioner shall not market or self-insure life insurance or optional coverages. The commissioner may market and self-insure dental and optional coverages. Nothing in this subdivision precludes the commissioner from determining plan design, providing informational materials, or communicating with employees about coverages.

Sec. 9. Minnesota Statutes 1996, section 43A.30, subdivision 5, is amended to read:

Subd. 5. **ADMINISTRATION.** The commissioner of employee relations may administer the employee insurance program. The commissioner may assess agencies, and employers of persons eligible for state-paid insurance and benefits under section 43A.24, the cost of these administrative services and include it in the amounts billed for life insurance, hospital, medical, and dental benefits, and optional coverages authorized. Receipts from the assessments must be deposited in the state treasury and credited to a special account in the employee insurance trust fund and are appropriated to the commissioner to pay these administrative costs.

Sec. 10. **[43A.375] DEDUCTION FOR EXPENSES; FRAUD OR MISTAKE.**

If expenses are reimbursed to an employee by the employer under circumstances of fraud or mistake, the expenses may be deducted from wages earned by or due the employee.

Sec. 11. Laws 1993, chapter 301, section 1, subdivision 4, is amended to read:

Subd. 4. **WAIVER.** (a) Upon receipt of the committee report required by subdivision 3, each entity head shall submit the list of recommended waivers to the commissioner of employee relations. The commissioner shall then grant the waivers requested by each entity, effective for the requesting entity, for a period ending June 30, 1997, subject to the restrictions in paragraph (b) and to revision in accordance with subdivision 5. These waivers are effective for the requesting entity, for a period ending June 30, 1997, except the waivers granted for the Minnesota housing finance agency shall extend to June 30, 1999. The commissioner shall waive a rule by granting a variance under Minnesota Statutes, section 14.05, subdivision 4.

(b) The commissioner may not grant a waiver if it would result in the layoff of classified employees or unclassified employees covered by a collective bargaining agreement except as provided in a plan negotiated under Minnesota Statutes, chapter 179A, that provides options to layoff for employees who would be affected. If a proposed waiver would violate the terms of a collective bargaining agreement reached under Minnesota Statutes, chapter 179A, the waiver may not be granted without the consent of the exclusive representative that is a party to the agreement.

Sec. 12. Laws 1995, chapter 248, article 12, section 2, is amended to read:

Sec. 2. **TERMINATION.**

Section 1 and the civil service pilot project in the housing finance agency as authorized by Laws 1993, chapter 301, terminate June 30, 1997 1999, or at any earlier time by a method agreed upon by the commissioners of employee relations and housing finance and the affected exclusive bargaining representative of state employees.

Sec. 13. Laws 1995, chapter 248, article 13, section 2, subdivision 2, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 2. **PILOT PROJECT.** During the biennium ending June 30, 1997-2001, the governor shall designate an executive agency that will conduct a pilot civil service project. The pilot program must adhere to the policies expressed in subdivision 1 and in Minnesota Statutes, section 43A.01. For the purposes of conducting the pilot project, the commissioner of the designated agency is exempt from the provisions that relate to employment in Minnesota Statutes, chapter 43A, Minnesota Rules, chapter 3900, and administrative procedures and policies of the department of employee relations. If a proposed exemption from the provisions that relate to employment in Minnesota Statutes, chapter 43A, Minnesota Rules, chapter 3900, and administrative procedures and policies of the department of employee relations would violate the terms of a collective bargaining agreement effective under Minnesota Statutes, chapter 179A, the exemption is not effective without the consent of the exclusive representative that is a party to the agreement. Upon request of the commissioner carrying out the pilot project, the commissioner of employee relations shall provide technical assistance in support of the pilot project. This section does not exempt an agency from compliance with Minnesota Statutes, sections 43A.19 and 43A.191, or from rules adopted to implement those sections.

Sec. 14. Laws 1995, chapter 248, article 13, section 2, subdivision 5, is amended to read:

Subd. 5. **PILOT PROJECT.** During the biennium ending June 30, 1997, the ~~human resources innovation committee established under Laws 1993, chapter 301, section 1, subdivision 6, 1999, the department of employee relations in conjunction with union representatives shall designate state job classifications to be included in a one or more pilot project projects.~~ Under this pilot project: (1) resumes of applicants for positions to be filled through a competitive open ~~this~~ process will be evaluated through an objective computerized system that will identify which applicants have the required skills; and (2) information on applicants determined to have required skills will be forwarded to the agency seeking to fill a vacancy, without ranking these applicants, and without a limit on the number of applicants that may be forwarded to the hiring agency. ~~Laws or rules that govern examination, ranking of eligibles, and certification of eligibles for competitive open positions do not apply to those job classifications included in the pilot project. This process is in lieu of the procedures provided in Minnesota Statutes, sections 43A.10 to 43A.13, and related rules and procedures adopted under Minnesota Statutes, section 43A.04, subdivision 4, except that applicants who are being referred and who qualify for veterans preference under Minnesota Statutes, section 43A.11, will be placed ahead of referrals who meet the required skills of the vacant position and who do not qualify for veterans preference.~~ Before designating a job classification under this subdivision, the ~~committee~~ department must assure that the hiring process for those job classifications complies with the policies in subdivision 1.

Sec. 15. Laws 1995, chapter 248, article 13, section 2, subdivision 6, is amended to read:

Subd. 6. **EVALUATION.** The commissioner of employee relations, in consultation with the ~~human resources innovation committee~~ union representatives, shall design and implement a system for evaluating the success of the pilot project in subdivision 5. By October 1, 1996 1997, and October 1, 1997 1998, the commissioner must report to the legislature on the pilot project. The report must:

New language is indicated by underline, deletions by strikeout.

(1) list job classifications subject to the each pilot project, and the number of positions filled ~~under in~~ these job classes under the pilot;

(2) evaluate the extent to which the project has been successful in maintaining a merit-based system in the absence of traditional civil service laws and rules;

(3) quantify time and money saved in the hiring process under the these pilot project projects, as compared to hiring under the traditional laws and rules;

(4) document the extent of complaints or problems arising under the new system; and

(5) recommend any changes in laws or rules needed to make permanent the successes of the pilot ~~project projects~~.

Sec. 16. Laws 1995, chapter 248, article 13, section 3, subdivision 2, is amended to read:

Subd. 2. **PILOT PROJECT.** During the biennium ending June 30, 1997, the department of employee relations must implement a system of incentives including economic incentives for unrepresented employees ~~for or~~ groups of unrepresented employees in the department. The system must be approved by the commissioner of finance before being implemented. The system must have the following characteristics:

(1) it must provide nonmanagerial unrepresented employees ~~or~~ groups of employees within the agency the possibility of earning economic rewards by suggesting changes in operation of the department's programs;

(2) it must provide nonmanagerial represented employees within the agency the possibility of receiving individual or group economic rewards, if provided in a collective bargaining agreement, for suggesting changes in the operation of the department's programs;

(3) it must provide groups of nonmanagerial represented employees within the agency the possibility of receiving group rewards in the form of training opportunities, ~~filling of unfilled employee complement~~, or other resources that benefit overall group performance;

(4) any economic awards must be based on changes in operations suggested by nonmanagerial employees ~~or groups of employees~~ that result in objectively measurable cost savings of at least \$25,000 or significant and objectively measurable efficiencies in services that the agency provides to its customers or clients, without decreasing the quality of these services;

(5) awards must be a minimum of \$500 up to a maximum of \$2,500 per year to unrepresented nonmanagerial employees ~~or groups of employees~~ who were instrumental in identifying and or implementing the efficiency and cost-saving measures;

(6) an "efficiency savings account" must be created ~~within each fund~~ that is used to provide money for department services. ~~Each account consists of money saved directly as a result of initiatives under this section. Any awards under this article must be paid from money in an efficiency savings account. One-half of the money in the account may be used for awards under this section, and the remainder must be returned to the fund from which the money was appropriated;~~

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

(7) no award shall be given except upon approval of a team comprised of equal numbers of management and nonmanagement employees selected by the commissioner of employee relations from state employees outside of the department; and

(8) the economic awards granted to unrepresented employees must be one-time awards in the form of a lump sum award, and must not add to the base salary of employees.

Sec. 17. AMERICANS WITH DISABILITIES ACT COORDINATOR.

The commissioner shall designate a state ADA coordinator who will have primary responsibility for providing training and technical assistance to agencies on the provisions of titles I and II of the Americans with Disability Act, Public Law Number 101-336, and Minnesota Statutes, chapter 363. The ADA coordinator will establish monitoring procedures and reports of progress to the governor's office on no less than a biennial basis.

The ADA coordinator will work with the state director of diversity and equal opportunity on the establishment of affirmative action goals for persons with disabilities in accordance with Minnesota Statutes, section 43A.19, subdivision 1, paragraph (b), and the review and approval of agency affirmative action plans consistent with Minnesota Statutes, sections 43A.04, subdivision 3, and 43A.191, subdivision 1.

Sec. 18. HUMAN RESOURCES SYSTEM.

Subdivision 1. PILOT PROJECT. The pilot program established in the department of human services by Laws 1994, chapter 453, section 1, is continued and amended as described in this section. The pilot program must adhere to the policies expressed in subdivision 1 and in Minnesota Statutes, section 43A.01. For the purposes of conducting the expanded pilot project, the commissioner of human services is exempt from the provisions that relate to employment in Minnesota Statutes, chapter 43A, Minnesota Rules, chapter 3900, and administrative procedures and policies of the department of employee relations. If a proposed exemption from the provisions that relate to employment in Minnesota Statutes, chapter 43A, Minnesota Rules, chapter 3900, and administrative procedures and policies of the department of employee relations would violate the terms of a collective bargaining agreement effective under Minnesota Statutes, chapter 179A, the exemption is not effective without the consent of the exclusive representative that is a party to the agreement. The labor-management committee established by Laws 1994, chapter 453, section 1, shall continue. The committee membership may be expanded as long as an equal number of labor and management representatives is maintained. A proposed exemption may not be implemented without the approval of the labor-management committee unless it affects only managerial or other unrepresented positions. Upon request of the commissioner of human services, and subject to the availability of resources, the commissioner of employee relations may provide technical assistance in support of the pilot project and may request reimbursement for the reasonable cost of any services provided. This section does not exempt the department of human services from compliance with Minnesota Statutes, sections 43A.19 and 43A.191, or from rules adopted to implement those sections.

Subd. 2. EVALUATION. The department of human services shall evaluate the pilot program. The evaluation shall include at least the following factors:

New language is indicated by underline, deletions by strikeout.

(1) the extent to which the department of human services has been successful in maintaining a merit-based human resources system in the absence of the traditional civil service rules and procedures;

(2) the extent to which the project's projected outcomes were achieved;

(3) the satisfaction of managers, supervisors, and exclusive representatives of employees with the changes; and

(4) the extent of complaints or problems arising under the new system.

The department of human services must report to the legislature by January 15, 1999, January 15, 2000, and January 15, 2001, on the progress and results of the project.

Sec. 19. STUDY OF STATE HIRING OPTIONS.

The commissioner of human services shall study and report to the legislature by January 15, 1998, with recommendations to expand employment opportunities for public assistance recipients in state agencies and institutions of higher education. The report may include recommendations on:

(1) giving qualified applicants who are recipients of public assistance preference in hiring; and

(2) other recommendations developed by the commissioner in consultation with other state agencies and institutions of higher education.

Sec. 20. REPEALER.

Minnesota Statutes 1996, section 43A.182, and Laws 1995, chapter 248, article 10, section 12, are repealed.

Presented to the governor May 5, 1997

Signed by the governor May 6, 1997, 2:35 p.m.

CHAPTER 98—S.F.No. 351

An act relating to administrative rules; assigning responsibility for legislative review of administrative rules to the legislative coordinating commission; abolishing authority to suspend rules without enactment of a statute; amending Minnesota Statutes 1996, sections 3.841; 3.842, subdivisions 2 and 4a; 3.843; 14.05, subdivision 5; 14.131; 14.14, subdivision 1a; 14.15, subdivision 4; 14.18, subdivision 1; 14.19; 14.22, subdivision 1; 14.225; 14.23; 14.26, subdivisions 1 and 3; and 14.47, subdivision 6; repealing Minnesota Statutes 1996, sections 3.842, subdivisions 4, 5, 6, and 7; 3.844; 3.845; and 15.065.

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

Section 1. Minnesota Statutes 1996, section 3.841, is amended to read:

3.841 LEGISLATIVE COORDINATING COMMISSION TO REVIEW ADMINISTRATIVE RULES; ~~COMPOSITION; MEETINGS.~~

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