

## CHAPTER 221—S.F.No. 1721

*An act relating to public employees; ratifying certain labor agreements and compensation plans; providing for transfer of vacation and sick leave for certain employees; modifying per diem provision for special mediators; modifying procedures for the listing of arbitrators; exempting epidemiologists from a salary cap; making technical changes; amending Minnesota Statutes 1998, sections 3.096; 43A.17, subdivision 4; 179.02, subdivision 2; 179A.03, subdivision 14; 179A.04, subdivision 3; 179A.10, subdivision 1; and 179A.16, subdivision 2; repealing Minnesota Statutes 1998, section 43A.17, subdivision 12.*

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

Section 1. **RATIFICATIONS.**

**Subdivision 1. 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 coordinating commission subcommittee on employee relations on June 24, 1998, is ratified.

**Subd. 2. TECHNICAL COLLEGE FACULTY.** The labor agreement between the state of Minnesota and the united technical college educators, as recommended by the legislative coordinating commission subcommittee on employee relations on June 24, 1998, is ratified.

**Subd. 3. UNREPRESENTED EMPLOYEES; HIGHER EDUCATION SERVICES OFFICE.** The plan for unrepresented, unclassified employees of the higher education services office, as approved by the legislative coordinating commission subcommittee on employee relations on June 24, 1998, is ratified.

**Subd. 4. STATE UNIVERSITY FACULTY.** The labor agreement between the state of Minnesota and the interfaculty organization, as approved by the legislative coordinating commission subcommittee on employee relations on November 24, 1998, is ratified.

**Subd. 5. NURSES.** The arbitration award and labor agreement between the state of Minnesota and the Minnesota nurses association, as recommended by the legislative coordinating commission subcommittee on employee relations on November 24, 1998, is ratified.

**Subd. 6. UNREPRESENTED MANAGERS; MINNESOTA STATE COLLEGES AND UNIVERSITIES.** The compensation plan for administrators of the Minnesota state colleges and universities, as modified and approved by the legislative coordinating commission subcommittee on employee relations on November 24, 1998, is ratified.

**Subd. 7. SALARIES FOR CERTAIN HEADS OF STATE AGENCIES.** The proposals to increase the salaries of certain heads of state agencies, as modified and approved by the legislative coordinating commission subcommittee on employee relations on November 24, 1998, are ratified.

**Subd. 8. CHANCELLOR; MINNESOTA STATE COLLEGES AND UNIVERSITIES.** The salary proposal of the board of trustees of the Minnesota state colleges

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and universities for the chancellor, approved by the legislative coordinating commission subcommittee on employee relations on November 24, 1998, is ratified.

Subd. 9. **CORRECTIONS OMBUDSMAN.** The salary of the corrections ombudsman shall be \$67,500 effective July 1, 1999.

Sec. 2. Minnesota Statutes 1998, section 3.096, is amended to read:

### 3.096 TRANSFER OF LEAVE.

An employee in the classified or unclassified service who accepts a position as a permanent employee of the legislature shall have accrued vacation ~~or~~ and sick leave transferred and placed to the employee's credit on the legislative records. A permanent employee of the legislature who accepts a position in the classified or unclassified service shall have accrued vacation ~~or~~ and sick leave transferred and placed to the employee's credit on the records of the new appointing authority. Vacation and sick leave are not transferred if the new position does not provide for the leave. The amount of vacation and sick leave that may be transferred is subject to any limitations imposed by the receiving agency's collective bargaining agreement or compensation plan.

Sec. 3. Minnesota Statutes 1998, section 43A.17, subdivision 4, is amended to read:

Subd. 4. **SPECIALISTS EXCEPTIONS.** (a) The commissioner may without regard to subdivision 1 establish special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified information systems staff employees in the following positions:

- (1) information systems staff;
- (2) actuaries in the departments of health, human services, and commerce; and
- (3) epidemiologists in the department of health.

Sec. 4. Minnesota Statutes 1998, section 179.02, subdivision 2, is amended to read:

Subd. 2. **SPECIAL MEDIATORS.** The commissioner may, from time to time, appoint special mediators to aid in the settlement of particular labor disputes or controversies who shall have the same power and authority as the commissioner with respect to such dispute and such appointment shall be for the duration only of the particular dispute. Such special mediators shall be paid a per diem allowance ~~not to exceed that established for arbitrators in section 179A.16, subdivision 8~~ as determined by the commissioner, while so engaged and their necessary expenses.

Sec. 5. Minnesota Statutes 1998, section 179A.03, subdivision 14, is amended to read:

Subd. 14. **PUBLIC EMPLOYEE.** "Public employee" or "employee" means any person appointed or employed by a public employer except:

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- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;
- (e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;
- (f) employees whose positions are basically temporary or seasonal in character and:
  - (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;
- (g) employees providing services for not more than two consecutive quarters to the board of trustees of the Minnesota state colleges and universities under the terms of a professional or technical services contract as defined in section 16C.08, subdivision 1;
- (h) employees of charitable hospitals as defined by section 179.35, subdivision 3;
- (i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;
- (j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;
- (k) an individual hired by a ~~school district or~~ the board of trustees of the Minnesota state colleges and universities to teach one course for ~~up to four~~ three or fewer credits for one quarter semester in a year.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

(1) An employee hired by a school district or the board of trustees of the Minnesota state colleges and universities except at the university established in section 136F.13 or for community services or community education instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; and

(2) An employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position.

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Sec. 6. Minnesota Statutes 1998, section 179A.04, subdivision 3, is amended to read:

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

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

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

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

(4) conduct elections;

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

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

(7) receive, catalogue, 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;

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

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

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

(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;

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

(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.

(b) From the names provided by representative organizations, the commissioner shall maintain a list of arbitrators to conduct teacher discharge or termination hearings

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according to section 122A.40 or 122A.41. The persons on the list 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.

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

Sec. 7. Minnesota Statutes 1998, section 179A.10, subdivision 1, is amended to read:

Subdivision 1. **EXCLUSIONS.** The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in this section, except as provided in section 43A.06, subdivision 1, paragraph (c). The units provided in this section are the only appropriate units for executive branch state employees. The following employees shall be excluded from any appropriate unit:

- (1) the positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with section 43A.18, subdivision 3, and so designated in the official state compensation schedules;
- (2) unclassified positions in the Minnesota state colleges and universities defined as managerial by their respective boards the board of trustees;
- (3) positions of physician employees compensated under section 43A.17, subdivision 4;
- (4) positions of all unclassified employees appointed by a constitutional officer;
- (5) positions in the bureau;
- (6) positions of employees whose classification is pilot or chief pilot;
- (7) administrative law judge and compensation judge positions in the office of administrative hearings; and
- (8) positions of all confidential employees.

The governor may upon the unanimous written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

Sec. 8. Minnesota Statutes 1998, section 179A.16, subdivision 2, is amended to read:

Subd. 2. **ESSENTIAL EMPLOYEES.** An exclusive representative or employer of a unit of essential employees may petition for binding interest arbitration by filing a writ-

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ten request with the other party and the commissioner. The written request must specify the items which that party wishes to submit to binding arbitration. Within 15 days of the request, the commissioner shall determine whether further mediation of the dispute would be appropriate and shall only certify matters to the board for arbitration in cases where the commissioner believes that both parties have made substantial, good-faith bargaining efforts and that an impasse has occurred.

**Sec. 9. REPEALER.**

Minnesota Statutes 1998, section 43A.17, subdivision 12, is repealed.

**Sec. 10. EFFECTIVE DATE.**

Sections 1, 3, and 9 are effective the day following final enactment.

Presented to the governor May 21, 1999

Signed by the governor May 24, 1999, 9:58 a.m.

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**CHAPTER 222—S.F.No. 319**

*An act relating to retirement; various pension plans; providing special benefit coverage for privatized employees of the Luverne public hospital, the Waconia Ridgeview medical center, and the Glencoe area health center; creating a local government correctional service retirement plan; modifying actuarial cost provision; providing a special property tax levy for certain county retirement contributions; providing an ad hoc postretirement adjustment to Eveleth police and fire trust fund benefit recipients; establishing an additional postretirement adjustment for the Fairmont police relief association; extending survivor benefit provisions to include certain Fairmont police relief association survivors; providing a special ad hoc postretirement adjustment to certain retired St. Cloud police officers; merging the pre-March 1, 1999, local police and paid fire consolidation accounts into the public employees police and fire plan; extending the minimum volunteer firefighter fire state aid amount to post-1993 relief association members; modifying governance provisions for the Minneapolis fire department relief association and the Minneapolis police relief association; providing a targeted early retirement incentive program for certain employees of the metropolitan council; permitting the purchase of service credit by various public employees; mandating certain school district service credit purchase payments; making miscellaneous changes in the legislators retirement plan, the Minnesota state colleges and university system individual retirement account plan, the Minnesota state retirement system, and the teachers retirement association; including supplemental needs trusts as recipients of optional annuity forms; eliminating the service credit maximum for monthly benefit volunteer fire relief associations; mandating school district repayment of certain omitted deduction interest charges; expanding the membership of the state correctional employees retirement plan to include certain Minnesota extended treatment options program employees; downsizing the early retirement reduction rates for various public safety plans; grandparenting public employee police and fire plan coverage for certain Rice county correctional employees; requiring Rice county to repay certain police state aid amounts; providing employer penalties for pension plan membership certification failures or errors; providing special retirement coverage for certain state fire marshal employees; authorizing the purchase of credit for certain periods of prior military service, out-of-state public teaching service, maternity leaves, maternity breaks-in-employment, parochial or private school teaching service, Peace Corps service or VISTA service; clarifying various Minneapolis employees retirement plan survivor benefit provisions; increasing*

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