

## CHAPTER 257—H.F.No. 2799

*An act relating to employment; modifying state dislocated worker program provisions; amending Minnesota Statutes 2002, sections 116L.01, subdivision 1; 116L.05, subdivision 4; 116L.17, subdivisions 1, 4, 5, 6; 176.011, subdivisions 15, 16; Minnesota Statutes 2003 Supplement, section 116L.17, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 116L; repealing Minnesota Statutes 2002, sections 116L.04, subdivision 4; 116L.17, subdivision 7.*

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

Section 1. Minnesota Statutes 2002, section 116L.01, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** For the purposes of this chapter sections 116L.01 to 116L.17, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2002, section 116L.05, subdivision 4, is amended to read:

Subd. 4. **LEGISLATIVE RECOMMENDATIONS.** By January 15 of each odd-numbered year, the board must submit recommendations to the house and senate committees with jurisdiction over workforce development programs, regarding modifications to, or elimination of, existing workforce development programs under the board's oversight and the potential implementation of new programs. The recommendations must include recommendations regarding funding levels and sources.

Sec. 3. Minnesota Statutes 2002, section 116L.17, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:

(1) ~~has been terminated permanently separated or has received a notice of termination permanent separation from public or private sector employment, and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;~~

(2) ~~has been terminated or has received a notice of termination of employment as a result of any plant closing or any substantial layoff at a plant, facility, or enterprise;~~

(3) ~~has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;~~

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(4) (3) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters, ~~subject to rules to be adopted by the commissioner; or~~

(5) has been self-employed as a farmer or rancher and, even though that employment has not ceased, has experienced a significant reduction in income due to inadequate crop or livestock prices, crop failures, or significant loss in crop yields due to pests, disease, adverse weather, or other natural phenomenon. This clause expires July 31, 2003; or

(6) (4) is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support.

To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.

(e) (d) "Eligible organization" means a state or local government unit, nonprofit organization, community action agency, business organization or association, or labor organization.

(d) (e) "Plant closing" means the announced or actual permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment.

(e) (f) "Substantial layoff" means a permanent reduction in the workforce, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for at least 50 employees excluding those employees that work less than 20 hours per week.

Sec. 4. Minnesota Statutes 2003 Supplement, section 116L.17, subdivision 2, is amended to read:

Subd. 2. **GRANTS.** The board shall make grants to workforce service areas or other eligible organizations to provide services to dislocated workers, as follows:

(a) The board shall allocate funds available for the purposes of this section in its discretion to respond to large substantial layoffs and plant closings.

(b) The board shall regularly allocate funds to provide services to individual dislocated workers or small groups. The initial allocation for this purpose must be at least 35 percent and no more than 50 percent of the actual collections, including penalty and interest accounts, interest, and other earnings of the workforce development fund during the period for which the allocation is made deposits and transfers into the workforce development fund, less any collection costs paid out of the fund and any amounts appropriated by the legislature from the workforce development fund for programs other than the state dislocated worker program. The board shall consider the

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need for services to individual workers and workers in small layoffs in comparison to those in large layoffs relative to the needs in previous years when making this allocation.

(c) Following the initial allocation, the board may consider additional allocations to provide services to individual dislocated workers. The board's decision to allocate additional funds shall be based on relevant economic indicators including: the number of substantial layoffs to date, notices of substantial layoffs for the remainder of the fiscal year, evidence of declining industries, the number of permanently separated individuals applying for unemployment benefits by workforce service area, and the number of individuals exhausting unemployment benefits by workforce service area. The board must also consider expenditures of allocations to workforce service areas under paragraph (b) made during the first two quarters of the fiscal year and federal resources that have been or are likely to be allocated to Minnesota for the purposes of serving dislocated workers affected by substantial layoffs or plant closings.

(d) The board may, in its discretion, allocate funds carried forward from previous years under subdivision 9 for large, small, or individual layoffs.

Sec. 5. Minnesota Statutes 2003 Supplement, section 116L.17, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION OF FUNDS.** The board, in consultation with local workforce councils investment boards and local elected officials, shall develop a method of distributing funds to provide services for dislocated workers who are dislocated as a result of small or individual layoffs. The board method shall consider current requests for services and the likelihood of future layoffs when making this allocation. The board shall consider factors for determining the allocation amounts that include, but are not limited to, the previous year's obligations and projected layoffs. After the first quarter of the program year, the board shall evaluate the obligations by workforce service areas for the purpose of reallocating funds to workforce service areas with increased demand for services. Periodically throughout the program year, the board shall consider making additional allocations to the workforce service areas with a demonstrated need for increased funding. The board shall make an initial determination regarding allocations under this subdivision by July 15, 2001, and in subsequent years shall make a determination by June 15 reflect recent trends in the number of permanently separated individuals applying for unemployment benefits in a given workforce service area. The board shall evaluate and adjust obligations quarterly, based on a similar method.

Sec. 6. Minnesota Statutes 2002, section 116L.17, subdivision 4, is amended to read:

Subd. 4. **USE OF FUNDS.** Funds granted by the board under this section may be used for any combination of the following, except as otherwise provided in this section:

(1) employment transition services such as developing readjustment plans for individuals; outreach and intake; early readjustment; job or career counseling; testing;

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orientation; assessment of skills and aptitudes; provision of occupational and labor market information; job placement assistance; job search; job development; prelayoff assistance; relocation assistance; and programs provided in cooperation with employers or labor organizations to provide early intervention in the event of plant closings or substantial layoffs;

(2) services that will allow the participant to become reemployed by retraining for a new occupation or industry, enhancing current skills, or relocating to employ existing skills, including classroom training; occupational skill training; on-the-job training; out-of-area job search; relocation; basic and remedial education; literacy and English for training non-English speakers; entrepreneurial training; and other appropriate training activities directly related to appropriate employment opportunities in the local labor market; and

(3) support services, including assistance to help the participant relocate to employ existing skills; out-of-area job search assistance; family care assistance, including child care; commuting assistance; emergency housing and rental assistance; counseling assistance, including personal and financial; health care; emergency health assistance; emergency financial assistance; work-related tools and clothing; and other appropriate support services that enable a person to participate in an employment and training program with the goal of reemployment;

(3) specific, short-term training to help the participant enhance current skills in a similar occupation or industry; entrepreneurial training, customized training, or on-the-job training; basic and remedial education to enhance current skills; and literacy and work-related English training for non-English speakers; and

(4) long-term training in a new occupation or industry, including occupational skills training or customized training in an accredited program recognized by one or more relevant industries. Long-term training shall only be provided to dislocated workers whose skills are obsolete and who have no other transferable skills likely to result in employment at a comparable wage rate. Training shall only be provided for occupations or industries with reasonable expectations of job availability based on the service provider's thorough assessment of local labor market information where the individual currently resides or is willing to relocate.

Sec. 7. Minnesota Statutes 2002, section 116L.17, subdivision 5, is amended to read:

Subd. 5. **COST LIMITATIONS.** (a) Funds allocated to a grantee are subject to the following cost limitations:

(1) no more than ten percent may be allocated for administration;

(2) at least 50 percent must be allocated for training assistance as provided in subdivision 4, clause ~~(2)~~ (4); and

(3) no more than 15 percent may be allocated for support services as provided in subdivision 4, clause ~~(3)~~ (2).

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(b) A waiver of the training assistance minimum in clause (2) (4) may be sought, but no waiver shall allow less than 30 percent of the grant to be spent on training assistance. A waiver of the support services maximum in clause (3) (2) may be sought, but no waiver shall allow more than 20 percent of the grant to be spent on support services. A waiver may be granted below the minimum and above the maximum otherwise allowed by this paragraph if funds other than state funds appropriated for the dislocated worker program are used to fund training assistance.

Sec. 8. Minnesota Statutes 2002, section 116L.17, subdivision 6, is amended to read:

Subd. 6. **PERFORMANCE STANDARDS.** (a) ~~The board, in consultation with representatives of local workforce councils and local elected officials, shall establish performance standards for the programs and activities administered or funded under this section. The board may use, when appropriate, existing federal performance standards or, if the commissioner determines that federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the dislocated worker program are effectively administered.~~

(b) ~~The board shall, at a minimum, establish performance standards that appropriately gauge the program's effectiveness at placing dislocated workers in employment, replacing lost income resulting from dislocation, early intervention with workers shortly after dislocation, and retraining of workers from one industry or occupation to another. (a) The commissioner, in consultation with the board, shall enter into contracts with local workforce investment boards, including the allocations determined by the board in subdivision 3. Contracts shall also require local workforce investment boards to report participant data to the commissioner regularly, in order to meet the requirements of this subdivision. The commissioner shall also enter into contracts with eligible organizations involved with substantial layoffs or plant closings. These contracts shall require the eligible organizations to report participant data to the commissioner regularly, in order to meet the requirements of this subdivision.~~

(b) The commissioner and the board shall jointly establish performance outcome measures for all local workforce investment boards and eligible organizations involved with substantial layoffs or plant closings. The commissioner may request additional information to calculate these performance measures.

(c) The commissioner and the board, in consultation with local workforce investment boards and eligible organizations involved with substantial layoffs or plant closings, shall establish minimum standards for the performance measures described in paragraph (b).

(d) Local workforce investment boards may establish and report on additional performance outcomes based on unique features of local labor markets and other geographic differences.

(e) The commissioner shall provide a report to the legislature by March 1 of each year on the previous fiscal year's program performance using the data in paragraphs (b) and (d) and analysis of whether local workforce investment boards and eligible

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organizations involved with substantial layoffs or plant closings are meeting the minimum standards described in paragraph (c). The commissioner shall inform any local workforce investment board or eligible organization that does not meet minimum performance standards in a given year of their status.

**Sec. 9. [116L.19] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 116L.19 to 116L.976.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of employment and economic development.

Subd. 3. DEPARTMENT. "Department" means the Department of Employment and Economic Development.

Sec. 10. Minnesota Statutes 2002, section 176.011, subdivision 15, is amended to read:

**Subd. 15. OCCUPATIONAL DISEASE.** (a) "Occupational disease" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.

(b) If immediately preceding the date of disablement or death, an employee was employed on active duty with an organized fire or police department of any municipality, as a member of the Minnesota State Patrol, conservation officer service, state crime bureau, as a forest officer by the Department of Natural Resources, state correctional officer, or sheriff or full-time deputy sheriff of any county, and the disease is that of myocarditis, coronary sclerosis, pneumonia or its sequel, and at the time of employment such employee was given a thorough physical examination by a licensed doctor of medicine, and a written report thereof has been made and filed with such organized fire or police department, with the Minnesota State Patrol, conservation officer service, state crime bureau, Department of Natural Resources, Department of Corrections, or sheriff's department of any county, which examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia or its sequel, the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment. If immediately preceding the date of disablement or

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death, any individual who by nature of their position provides emergency medical care, or an employee who was employed as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic; state correctional officer; emergency medical technician; or licensed nurse providing emergency medical care; and who contracts an infectious or communicable disease to which the employee was exposed in the course of employment outside of a hospital, then the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment and the presumption may be rebutted by substantial factors brought by the employer or insurer. Any substantial factors which shall be used to rebut this presumption and which are known to the employer or insurer at the time of the denial of liability shall be communicated to the employee on the denial of liability.

(c) A firefighter on active duty with an organized fire department who is unable to perform duties in the department by reason of a disabling cancer of a type caused by exposure to heat, radiation, or a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and the carcinogen is reasonably linked to the disabling cancer, is presumed to have an occupational disease under paragraph (a). If a firefighter who enters the service after August 1, 1988, is examined by a physician prior to being hired and the examination discloses the existence of a cancer of a type described in this paragraph, the firefighter is not entitled to the presumption unless a subsequent medical determination is made that the firefighter no longer has the cancer.

Sec. 11. Minnesota Statutes 2002, section 176.011, subdivision 16, is amended to read:

Subd. 16. **PERSONAL INJURY.** "Personal injury" means injury arising out of and in the course of employment and includes personal injury caused by occupational disease; but does not cover an employee except while engaged in, on, or about the premises where the employee's services require the employee's presence as a part of that service at the time of the injury and during the hours of that service. Where the employer regularly furnished transportation to employees to and from the place of employment, those employees are subject to this chapter while being so transported. Personal injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of personal reasons, and not directed against the employee as an employee, or because of the employment. An injury or disease resulting from a vaccine in response to a declaration by the Secretary of the United States Department of Health and Human Services under the Public Health Service Act to address an actual or potential health risk related to the employee's employment is an injury or disease arising out of and in the course of employment.

**EFFECTIVE DATE.** This section is effective January 24, 2003.

Sec. 12. **REPEALER.**

Minnesota Statutes 2002, sections 116L.04, subdivision 4; and 116L.17, subdivision 7, are repealed.

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Presented to the governor May 18, 2004

Signed by the governor May 25, 2004, 10:40 a.m.

#### CHAPTER 258—S.F.No. 2274

*An act relating to zoning; providing certain limitations on municipal interim ordinances and on nonconformities; amending Minnesota Statutes 2002, sections 462.355, subdivision 4; 462.357, subdivision 1e.*

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

Section 1. Minnesota Statutes 2002, section 462.355, subdivision 4, is amended to read:

Subd. 4. **INTERIM ORDINANCE.** If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in section 462.352, subdivision 15, or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective, and the period of an interim ordinance applicable to an area that is affected by a city's master plan for a municipal airport may be extended for such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months in the case where the Minnesota Department of Transportation has requested a city to review its master plan for a municipal airport prior to August 1, 2004. In all other cases, no interim ordinance may halt, delay, or impede a subdivision which has been given preliminary approval, nor may any interim ordinance extend the time deadline for agency action set forth in section 15.99 with respect to any application filed prior to the effective date of the interim ordinance. The governing body of the municipality may extend the interim ordinance after a public hearing and written findings have been adopted based upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be held at least 15 days but not more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended for the following conditions and durations, but, except as provided in clause (3), an interim ordinance may not be extended more than an additional 18 months:

(1) up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the municipality

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