

words, phrases, and clauses of this section are severable.

Subd. 6. SUPREME COURT JURISDICTION. The Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality of this section and shall expedite the resolution of the action.

Sec. 3. APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY PROMOTION.

\$2,500,000 is appropriated from the general fund to the commissioner of health for positive abortion alternatives under new Minnesota Statutes, section 127A.145. Of this amount, \$50,000 is available for the fiscal year ending June 30, 2006, and \$100,000 is available for the fiscal year ending June 30, 2007, for administrative costs of implementing the grant program. The balance of the appropriation is available for the fiscal year ending June 30, 2007. The base funding for fiscal years 2008 and 2009 is \$2,500,000 per year.

Presented to the governor May 23, 2005

Signed by the governor May 23, 2005, 3:10 p.m.

CHAPTER 125—H.F.No. 2187

An act relating to public and municipal corporations; creating a county subsidiary corporation to provide health care and related services, education, and research; providing for governance of Hennepin County Medical Center; amending Minnesota Statutes 2004, sections 179A.03, subdivisions 7, 14, 15; 179A.06, subdivision 2; 353.01, subdivisions 2b, 2d, 6; 353.64, subdivision 10; 353E.02, subdivision 2a; 383B.117, subdivision 2; 383B.217, subdivision 7; 383B.46; proposing coding for new law in Minnesota Statutes, chapters 179A; 383B; repealing Minnesota Statutes 2004, section 383B.217, subdivisions 1, 2, 3, 4, 5, 6, 8.

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

ARTICLE 1

HENNEPIN HEALTHCARE SYSTEM

Section 1. [383B.901] CREATION OF A COUNTY SUBSIDIARY CORPORATION.

There is created a corporation which shall be public in nature, operating as a subsidiary of the county of Hennepin. The public corporation shall be known as Hennepin Healthcare System, Inc. The purpose of the corporation is to engage in the

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organization and delivery of health care and related services to the general public, including the indigent as defined by state and federal law and as determined by the Hennepin County Board of Commissioners, and to conduct related programs of education and research. The corporation shall have one class of members, the governing member, who shall be Hennepin County, as represented by the Hennepin County Board of Commissioners. The governing member has all the rights, duties, and privileges specified under this act and the bylaws of the corporation.

Sec. 2. [383B.902] DEFINITIONS.

Subdivision 1. TERMS. For the purpose of this act, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

(a) "Corporation" means the county subsidiary corporation created by section 383B.901.

(b) "County" means the county of Hennepin.

(c) "County board" means the Hennepin County Board of Commissioners and its members.

(d) "HCMC" means the Hennepin County Medical Center, which is the medical center established and operated by the county under section 383B.217.

(e) "Effective date" means the effective date of the sections of this act, as defined in section 29.

Sec. 3. [383B.903] BOARD.

Subdivision 1. GOVERNANCE. The corporation shall be governed by a board of directors consisting of between 11 and 15 directors. Two of the directors on the board of the corporation must be county commissioners currently serving as elected officials on the county board who are chosen and may be removed by a majority vote of the county board.

Subd. 2. TERM, QUORUM, AND MANNER OF ACTING. The term of office for directors, rules governing quorum, and manner of acting for the board of directors must be specified in the bylaws of the corporation which shall be approved by the county board, except that:

(1) a vote of a majority of the board shall be required to hire or discharge the corporation's administrator, to approve the annual budget, and for any action which requires subsequent approval by the county board as specified in section 383B.908; and

(2) directors of the board of directors or any committee or advisory assembly or council appointed by the board of directors may participate in a meeting by means of telephone conference or similar communications equipment which enables all persons participating in the meeting to hear each other during the conduct of that meeting. Participation shall be considered presence in person at the meeting for purposes of notice and quorum requirements as specified in the bylaws.

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Subd. 3. APPOINTMENT OF BOARD MEMBERS. The county board shall appoint the initial board of the corporation. Thereafter, the county board shall appoint directors of the corporation by slate to open positions due to the completion of a director's term as specified in the bylaws of the corporation. The slate shall be nominated by a committee of the board of the corporation. The board of the corporation may by majority vote appoint a board member to fill a vacancy on the board occurring prior to the completion of the term, provided the newly appointed board member is submitted to the county board for approval when the next slate of directors is submitted to the county board for approval.

Subd. 4. QUALIFICATIONS. Members of the board shall possess a high degree of experience and knowledge in relevant fields and possess a high degree of interest in the corporation and support for its mission. Members shall be appointed based in part on the objective of ensuring that the corporation includes diverse and beneficial perspectives and experience including, but not limited to, those of medical or other health professionals, urban, cultural and ethnic perspectives of the population served by the corporation, business management, law, finance, health sector employees, public health, serving the uninsured, health professional training, and the patient or consumer perspective. The corporation shall provide a public announcement of vacancies on the board of the corporation in the manner normally used by Hennepin County to provide public notice of open appointments.

Subd. 5. REMOVAL. A director who is not a county commissioner may be removed without cause by a two-thirds majority vote of the board of the corporation. The county board may remove any board member for violation of the director's ethical and legal duties as a board member as specified in section 383B.905 or for the repeated failure to act in the best interests of the corporation. In addition, the county board may remove the corporate board in its entirety as specified in section 383B.908, subdivision 7.

Sec. 4. [383B.904] OFFICERS.

Subdivision 1. ELECTION. (a) The officers of the board of the corporation shall consist of the chair, vice chair, secretary, treasurer, and other officers as the board shall from time to time deem necessary. The board shall elect officers by a majority vote of the board at the annual meeting, or in the case of the initial board, at the first meeting following appointment by the county board.

(b) Any of the offices or functions, with the exception of the chair and vice chair, may be held or exercised by the same person.

Subd. 2. REMOVAL. An officer may be removed without cause by a two-thirds majority vote of the board of the corporation.

Sec. 5. [383B.905] AUTHORITY AND DUTIES OF OFFICERS AND DIRECTORS.

Subdivision 1. IN BYLAWS OR BY BOARD. Officers and directors have the authority and duties in the management of the business of the corporation that the bylaws prescribe or, in the absence of such prescription, as the board determines.

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Subd. 2. ORDINARY PRUDENT PERSON STANDARD. Officers and directors shall discharge their duties in good faith, in the manner the officer or director reasonably believes to be in the best interests of the corporation, and with the care an ordinary prudent person in a like position would exercise under similar circumstances.

Subd. 3. NOT TRUSTEES. Officers and directors are not considered to be trustees with respect to the corporation or with respect to property held or administered by the corporation, including, without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

Sec. 6. [383B.906] BYLAWS.

Prior to the appointment of the initial board of the corporation, the county board shall approve the bylaws of the corporation. Thereafter, the board of the corporation may adopt, amend, or repeal bylaws relating to the management of the business or regulation of the affairs of the corporation, except that the county board shall approve any bylaws change relating to:

(1) board composition, board and officer selection, terms, removal, or qualifications;

(2) the county board's reserved powers as specified in the bylaws;

(3) the ability of the corporation to engage in joint ventures;

(4) the ability of the corporation to incur debt through the county;

(5) the ability of the corporation to create subsidiaries;

(6) the ability of the corporation to merge or dissolve;

(7) the ability of the corporation to use subsidiaries to undertake functions or activities performed by employees of the corporation; or

(8) the mission of the corporation.

Sec. 7. [383B.907] CORPORATE POWERS.

Subdivision 1. AUTHORITY AND POWERS OF THE BOARD. Subject to the reserved powers and limitations specified in sections 383B.903 and 383B.908, or as specified in the bylaws of the corporation, the corporation, through its board, shall, relative to the delivery of health care services, have, in addition to any authority vested by law, the authority and legal capacity of a nonprofit corporation under chapter 317A including the authority to:

(1) have members of its board or its officers or administrators serve as directors, officers, or employees of the corporation's ventures, associations, or corporations;

(2) hire and discharge an administrator;

(3) approve personnel policies and practices, any applicable labor agreements, and levels of compensation and benefits recommended by the administrator;

(4) use employees, agents, consultants, and facilities of the county, as necessary in the discretion of the board, paying the county its agreed proportion of the

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compensation or costs pursuant to an agreement with the county;

(5) spend funds, including public funds in any form, or devote the resources of the corporation to recruit and retain physicians whose services are necessary or desirable for meeting the health care needs of the population and for the successful performance of the public purpose of the corporation. Allowable uses of funds and resources include the retirement of medical education debt, payment of onetime amounts in consideration of services rendered or to be rendered, payment of recruitment expenses, payment of moving expenses, and the provision of other financial assistance necessary for the recruitment and retention of physicians, provided that the expenditures in whatever form are reasonable under the facts and circumstances of the situation;

(6) offer, directly or indirectly, products and services of the corporation and/or affiliated entities to the general public, and retain any profits earned through the provision of these products and services for the purpose of advancing the mission of the corporation;

(7) own shares of stock in business corporations;

(8) borrow money and issue bonds in support and promotion of the corporation's purpose and mission and providing any rights and obligations related thereto;

(9) accept gifts, grants, loans, or contributions of funds or property or financial or other aid in any form from, and enter into contracts or other transactions with, the federal government, the state of Minnesota, third-party payors, or any other source, and to use any gifts, grants, loans, or contributions for any of its corporate purposes;

(10) enter shared service and other cooperative ventures;

(11) join or sponsor membership in organizations intended to benefit the corporation;

(12) enter partnerships, joint ventures, or other business arrangements to advance the mission of the corporation;

(13) sue or be sued; and

(14) incorporate other corporations, both for profit and nonprofit.

Subd. 2. OTHER POWERS. Subject to the reserved powers and limitations specified in sections 383B.903 and 383B.908, or as specified in the bylaws of the corporation, the corporation shall have all the powers necessary and convenient for the operation, administration, management, and control of the corporation's affairs. The enumeration of specific powers in this section is not intended to restrict the power of the corporation to take any action which, in the exercise of its discretion, is necessary or convenient to further the purposes for which the corporation exists and that is not otherwise prohibited by law, whether or not the power to take the action is necessarily implied from the powers expressly granted.

Sec. 8. [383B.908] LIMITATIONS UPON CORPORATE POWERS; RESERVED POWERS.

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Subdivision 1. POWERS RESERVED TO THE COUNTY. Notwithstanding the authority granted to the board in section 383B.907, the county board shall retain specific controls over the corporation's mission, ability to incur indebtedness through the county, indigent care, and governance. These county board controls must be specified in the bylaws or other transactional documents, which shall be approved by the county board.

Subd. 2. RESTRICTION ON DISPOSITION OF THE ASSETS. The corporation shall not have the power to dissolve, merge, consolidate, transfer, liquidate, or otherwise dispose of or distribute all, or substantially all, of the corporation's assets without a county board resolution approved by a majority of the county board.

Subd. 3. DISTRIBUTION OF ASSETS UPON DISSOLUTION. In the event of the dissolution of the corporation, the net assets of the corporation shall be distributed to the county for public purposes.

Subd. 4. COMPENSATION AND PAYMENT LIMITATIONS. No part of the net earnings and assets of the corporation shall inure to the benefit of any private individual, nor shall any part of the income or assets of the corporation be distributed to or divided among any private individuals as dividends or otherwise.

Subd. 5. FINANCIAL OVERSIGHT. The county board shall approve the annual budget of the corporation and receive an annual audited financial statement. The annual budget shall address how efficiencies and revenues contribute to stabilize or reduce county liabilities for indigent care. The county board shall also retain the right to conduct an independent audit of the finances of the corporation.

Subd. 6. COUNTY SERVICES. The county board shall retain the authority to require the corporation to provide other health care or health care related services as the county board determines to be in the best interest of the county. The corporation shall provide these services as long as the county board provides funds to pay for the services. Payment to the corporation for the services shall be as agreed between the corporation and the county board.

Subd. 7. DISSOLUTION OR REORGANIZATION OF THE CORPORATION. The county board shall retain the right to dissolve the corporation, reorganize the corporation, or remove the entire corporate board in order to resume management of Hennepin County Medical Center upon a two-thirds vote of the entire county board.

Sec. 9. [383B.909] CORPORATE SEAL.

The corporation shall not have a corporate seal.

Sec. 10. [383B.910] BOARD MEETINGS.

In accordance with the bylaws of the corporation, the board shall provide for annual, regular, and special meetings to be held at a designated interval throughout the year. Notice of these meetings shall be provided in accordance with the bylaws of the corporation.

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Sec. 11. [383B.911] PUBLIC DEPOSITORY.

The corporation shall have jurisdiction over its accounts and payrolls and shall establish and maintain a public depository. The corporation may use the county as a public depository. If the depository is not the county, the depository must be subject to chapter 118A, except that the corporation shall determine the appropriate security. The corporation shall establish and maintain all necessary accounts. The corporation may establish reserve accounts, depreciation accounts, and working capital funds in order to operate on an accrual basis.

Sec. 12. [383B.912] TRANSFER OF RIGHTS.

Subdivision 1. CORPORATION AS CONTINUATION OF HCMC. The corporation created by section 383B.901 shall be considered a continuation of HCMC for purposes of all the rights, liabilities, and contractual obligations of the county pertaining to the operations of HCMC except as otherwise provided herein. The corporation succeeds to all rights and contractual obligations of the county pertaining to the operations of HCMC with the same force and effect as if those rights and obligations had been continued by the county itself.

Subd. 2. PENDING MATTERS. The corporation may conduct and complete any legal action, administrative proceeding, or any other matter commenced by or against HCMC or the county, on behalf of HCMC, which was incurred before or pending as of the effective date, in the same manner, under the same conditions, and with the same effect as though the action, proceeding, or other matter were conducted or completed by HCMC or the county acting on behalf of HCMC.

Subd. 3. TRANSFER OF DOCUMENTS REQUIRED. On the effective date, HCMC, or the county on behalf of HCMC, shall have the authority to transfer and deliver to the corporation, as specified in the lease and other transactional documents referenced in section 383B.913, all contracts, books, bonds, plans, paper, records, including all personnel and medical records, and other property of every description within the jurisdiction or control of HCMC, or the county acting on behalf of HCMC, except as otherwise provided herein.

Subd. 4. TRANSFER OF FUNDS. On the effective date, HCMC, or the county on behalf of HCMC, shall have the authority to transfer to the corporation all unspent funds appropriated to HCMC, as specified in the lease and other transactional documents referenced in section 383B.913.

Sec. 13. [383B.913] LEASE OR TRANSFER OF ASSETS.

Subdivision 1. CORPORATE STATUS. The corporation shall be considered a "public corporation" for purposes of section 465.035.

Subd. 2. LEASE OF REAL PROPERTY. Notwithstanding any other laws to the contrary, as of the effective date, the county shall have the authority to enter into a lease, mutually agreeable to both parties, with the corporation for substantially all of the real property acquired by or turned over to the county for the establishment, operation, or maintenance of HCMC prior to and as of the effective date and necessary for the operation of the corporation. Subject to restrictions specified in the written lease and other transaction documents by and between the county and the corporation, the

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county shall lease the real property exclusively to the corporation. For the purposes of this subdivision, real property shall mean the real property used by the county for the operations of HCMC that the county shall lease to Hennepin Healthcare System, Inc., as specified in the lease documents and this act as of the effective date.

Subd. 3. REQUIREMENTS OF LEASE. In order for the county to enter into the lease described in subdivision 2, the lease must also address the following:

- (1) continued primary use of the property for health and hospital services;
- (2) indigent care;
- (3) capital improvements;
- (4) joint ventures and partnerships;
- (5) assignments and subleases; and
- (6) changes to hospital capacity.

Subd. 4. TRANSFER OF ASSETS. The county shall transfer to the corporation assets as designated by the county in transactional documents accompanying the lease for use in the operations of HCMC. For purposes of this subdivision, assets means the equipment and other personal property used by the county for the operations of HCMC that the county shall transfer to Hennepin Healthcare System, Inc., as specified in the transaction documents and this act as of the effective date.

Subd. 5. NO ADVERTISING OR BIDS. The county may transfer and lease the assets and real property to the corporation as specified in subdivisions 2 and 3 without first advertising for or soliciting any bids.

Sec. 14. [383B.914] STATUS OF PRESENT EMPLOYEES; BARGAINING UNITS; RETIREMENT COVERAGE.

Subdivision 1. HEALTH SYSTEM HUMAN RESOURCES SYSTEM. Persons employed at the corporation created shall be subject to a human resources system that is designed to offer appropriate benefits to workers employed in a health care setting. This human resources system shall replace the general county human resources system prescribed in sections 383B.26 to 383B.42, and any rules related to it. The corporation shall have the authority to establish all personnel policies and practices, negotiate applicable labor agreements, and set all levels of compensation and benefits which are considered appropriate by the board except as limited in this section. The human resources system is subject to the following human resources requirements:

- (1) determine compensation according to the pay equity requirements under sections 471.991 to 471.999;
- (2) provide preferences for veterans according to the Veterans Preference Act under sections 197.455, 197.46, and 375.63; and
- (3) provide an appeals process for an individual who is discharged, demoted, or suspended.

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Subd. 2. **EMPLOYEE TRANSFER.** All persons employed by the county whose employment is accounted for in the county enterprise fund for HCMC, on the effective date, shall be transferred to the corporation as specified in the lease and other transactional documents referenced in section 383B.913. The transfer of employees to the corporation under this subdivision does not constitute severance or termination of employment or a layoff entitling transferred employees to severance pay, termination benefits, a retirement plan refund, or any other right that may be applicable in the case of severance, termination, or layoff.

Subd. 3. **CURRENT POSITIONS.** Each person employed by the county who is transferred to the corporation on the effective date shall retain employment and accrued benefits, including participation in deferred compensation programs, and will be recorded by most recent date of employment with Hennepin County upon transfer to the corporation created in section 383B.901.

Subd. 4. **BARGAINING UNITS.** The corporation shall recognize existing bargaining units organized by employees of HCMC and the exclusive representatives of those bargaining units as of the effective date. The corporation shall adopt all current labor agreements as of the effective date for the term of those agreements, except for countywide references, countywide provisions, and countywide human resources rules.

Subd. 5. **GENERAL EMPLOYEE RETIREMENT BENEFITS.** (a) Except as provided in paragraph (b), employees of the corporation, other than paramedics, emergency medical technicians and the supervisors and managers of such employees, and protection officers and supervisors of such employees, are "public employees" under chapter 353 and are members of the general employees retirement plan of the Public Employees Retirement Association, including employees transferred to the corporation under subdivision 2 and employees hired by the corporation after the effective date.

(b) Notwithstanding sections 356.24 and 356.25, the corporation has the authority to create alternative retirement plans that are not defined benefit pension plans for the following classes of employees: supervisors, managers, physicians, and independent health practitioners who bill independently for their time, provided the value of the aggregate benefits are substantially comparable to the general employee retirement plan of the Public Employees Retirement Association. These classes of employees are eligible to participate in the general retirement plan of the Public Employees Retirement Association until and unless the corporation creates alternative retirement plans. Only those employees who are within the designated class and who are hired after the date of creation of the alternative plan may be enrolled in the alternative retirement plan in lieu of participation in the general employees retirement plan of the Public Employees Retirement Association. Any alternative retirement benefit plan established by the corporation must comply with the financial reporting requirements for public pension plans under section 356.20 and the investment performance reporting requirements for public pension plans under section 356.219.

Subd. 6. **EMPLOYEES ELIGIBLE TO CONTINUE PARTICIPATION IN PUBLIC EMPLOYEE RETIREMENT ASSOCIATION CORRECTIONAL, POLICE AND FIRE BENEFIT PLANS.** Notwithstanding subdivision 5, both existing

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and future employees of the corporation in the positions of paramedic and emergency medical technician, including supervisors and managers of such employees, as provided in section 353.64, subdivision 10, are members of the public employees police and fire retirement plan under sections 353.63 to 353.68 and in the position of protection officer, including supervisors of such employees, as provided in section 353E.02, subdivision 2a, are members of the local government correctional retirement plan under chapter 353E.

Subd. 7. PARTICIPATION IN STATE DEFERRED COMPENSATION PLAN. (a) Existing employees of the corporation, at the election of the corporation, if otherwise qualified, are eligible to participate in the Hennepin County supplemental retirement plan under sections 383B.46 and 383B.52.

(b) Existing and future employees of the corporation, at the election of the corporation, are eligible to participate in the Minnesota state deferred compensation plan under section 352.96, the postretirement health care savings plan under section 352.98, and all other deferred compensation arrangements for which all persons employed by the county whose employment is accounted for in the county enterprise fund for HCMC were eligible.

Subd. 8. SUBSIDIARIES. Any subsidiary created by the corporation shall be subject to the same human resources requirements as those that apply to the corporation under subdivision 1.

Sec. 15. [383B.915] BONDING AUTHORITY OF CORPORATION.

Subdivision 1. MUNICIPALITY. The corporation shall be considered a "municipality" pursuant to section 475.51, subdivision 2, for purposes of bond issuance and shall have all the authority conferred on municipalities by chapter 475, unless that authority is modified in this section.

Subd. 2. SALE OF BONDS. Subject to the reserved powers and limitations specified in section 383B.908 and notwithstanding any of the corporation's enumerated powers, the corporation may issue and sell revenue bonds or other revenue obligations to finance capital improvements or for the acquisition and betterment of facilities or other property to be utilized for the delivery of health care and related research, the establishment of reserves for bond payment, or for other proper corporate purposes.

Subd. 3. SECURITY FOR BONDS. Subject to the reserved powers and limitations specified in section 383B.908 and notwithstanding any of the corporation's enumerated powers, the bonds may be secured by a mortgage of or security interest in any property owned by the corporation or any interest of the corporation in any property and by a pledge of revenues to be derived from operation of the corporation's facilities as a first and prior lien thereon or as a lien subordinate to the costs of operation and maintenance of the facilities. The bonds must be in an amount, and shall mature, as provided by resolution of the board and may be issued in one or more series and shall bear a date or dates, bear interest at a rate or rates, be in a denomination or denominations, be in the form either coupon or registered, carry the conversion or

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registration privileges, have rank or priority, be executed in the manner, be payable in medium of payment at the place or places, and be subject to the terms of redemption, with or without premium, as the resolution may provide. The bonds may be sold at public or private sale at a price or prices determined by the resolution. Notwithstanding any law to the contrary, the bonds must be fully negotiable. The corporation may enter into the covenants the board, by resolution, shall deem necessary and proper to secure payment of the bonds. The revenue bonds must state on their face that they are not payable from, nor may be a charge upon, any funds other than the revenues and property pledged or mortgaged for their payment, nor shall the corporation be subject to any liability on them or have the power to obligate itself to pay or pay the revenue bonds from funds other than the revenues and property pledged and mortgaged. No holder or holders of the bonds shall ever have the right to compel any exercise of any taxing power of the county or any other public body to pay the principal of or interest on any of them, nor to enforce payment of them against any property other than that expressly pledged or mortgaged for their payment.

Sec. 16. [383B.916] FINANCING THROUGH COUNTY.

In addition to the authority granted in section 16, the county may finance any improvements, equipment, or other property to be operated by the corporation and may issue bonds for such purposes pursuant to and subject to the procedures and limitations set forth in section 373.40, 383B.117, 447.45, or other law, as appropriate, whether or not the capital improvement or equipment to be financed is to be owned by the county or the corporation.

Sec. 17. [383B.917] OPEN MEETING LAW; GOVERNMENT DATA PRACTICES ACT.

Subdivision 1. DATA PRACTICES ACT. (a) The corporation is subject to chapter 13, the Minnesota Government Data Practices Act.

(b) "Competitive data," as defined in this subdivision, are nonpublic data pursuant to section 13.02, subdivision 9, or private data on individuals pursuant to section 13.02, subdivision 12. Competitive data are any type of data that the corporation, in its discretion, determines that if disclosed could cause competitive disadvantage to the corporation, including causing adverse effects on the current or future competitive position of the corporation or the entities, facilities, and operations for which it is responsible. Data discussed at an open meeting of the corporation retains the data's original classification, including classification as competitive data, as provided in section 13D.05, subdivision 1, paragraph (c). Any data disseminated by the corporation to the county shall retain the same classification in the hands of the county, including the classification as competitive data, as provided in section 13.03, subdivision 4.

(c) A subsidiary, joint venture, association, partnership, or other entity that is formed by the corporation is not subject to chapter 13, except that if the corporation enters into a contract with such an entity to perform any functions of the corporation, the corporation shall include in the contract terms that make it clear that data created, collected, received, stored, used, maintained, or disseminated by the contracting entity in performing those functions is subject to the same requirements under chapter 13 as

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the corporation under this subdivision. However, this section does not create a duty on the part of the contracting entity to provide access to public data to the public if the public data are available from the corporation, except as required by the terms of the contract. Any entity contracting to perform functions of the corporation may classify data as competitive data as defined in paragraph (b).

Subd. 2. OPEN MEETING LAW. (a) The board of directors of the corporation is subject to chapter 13D, the Minnesota Open Meeting Law.

(b) The board may close all or part of a board meeting when discussing competitive data or considering strategic, business, planning, or operational issues the disclosure of which, in its discretion, it determines could cause competitive disadvantage to the corporation, including causing adverse effects on the current or future competitive position of the corporation or the entities, facilities, and operations for which it is responsible. Meetings of committees of the board of directors may, at the discretion of the board, be closed to the public.

(c) In addition, the following meetings of the corporation shall be held and shall be open meetings: (1) an annual public meeting to report on the affairs of the corporation and the goals for the future, including a report on the health services plan specified in section 383B.918; (2) meetings of the corporation held during the development and implementation phase of the health services plan for the purpose of informing the public and receiving public comment; and (3) that portion of a meeting at which the board of the corporation approves the annual budget prior to submission to the county board for approval. Meetings held under clause (1) or (2) may be chaired by a member of the board of directors or a member of the administration as designated by the board of directors. Except as provided in paragraphs (a), (b), and (c), other meetings of the corporation are not subject to chapter 13D.

(d) Chapter 13D does not apply to a subsidiary, joint venture, association, or partnership of the corporation unless such entity has been organized to assume management of the corporation.

Sec. 18. [383B.918] HEALTH SERVICES PLAN.

The corporation shall prepare, and submit to the county board for review and approval, a health services plan that draws from a population health needs assessment and delineates the corporation's role in the community, including education, research, and services to improve the health status of the community including indigent populations. The health services plan shall contain a description of how the corporation shall continue to coordinate with the county to provide health-related services to the residents of Hennepin County, including the indigent as defined by state and federal law and as determined by the Hennepin County Board of Commissioners.

Sec. 19. [383B.919] TORT LIABILITY.

The corporation shall be a "municipality" for purposes of tort liability pursuant to chapter 466; except that chapter 466 does not apply to an action against any subsidiary, joint venture, association, or partnership of the corporation alleging malpractice, error, mistake, or failure to cure because of the actions of physicians or other health care

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providers employed by the entity, unless that entity has been organized to assume management of the entire corporation.

Sec. 20. [383B.920] REVENUE RECAPTURE ACT.

The corporation shall be considered a "claimant agency" for purposes of the Revenue Recapture Act, chapter 270A.

Sec. 21. [383B.921] PURCHASING.

Subdivision 1. PUBLIC PROCUREMENT. Notwithstanding any law to the contrary, contracting and purchasing of goods, materials, supplies, equipment, and services that are included as part of a contract for the purchase of goods, materials, supplies, equipment, or services are specifically exempted from sections 383B.141 to 383B.151 and 471.345 to 471.371, or other applicable laws related to public procurement.

Subd. 2. PURCHASING AND SERVICE CONTRACTS. The corporation may purchase directly or utilize the services of a nonprofit cooperative hospital service organization, the county, the state of Minnesota, the University of Minnesota, or any other political subdivision or agency of the state of Minnesota in the purchase of all goods, materials, and services that the corporation may require.

Sec. 22. [383B.922] LEGAL COUNSEL.

With respect to the provisions of section 388.051, the corporation shall be deemed a part of Hennepin County for purposes of the Hennepin County attorney serving as legal counsel to the corporation; provided, however, that the corporation and the Hennepin County attorney may enter into an arrangement with respect to the hiring of outside counsel on behalf of the corporation. The corporation shall reimburse the county for legal services provided by the Hennepin County attorney, including any and all costs, and the reimbursement shall be credited to the budget of the Hennepin County attorney.

Sec. 23. [383B.923] SELF-INSURANCE.

Subdivision 1. SELF-INSURANCE. The corporation may participate in any self-insurance program established by the county in accordance with section 383B.155.

Subd. 2. ADDITIONAL BENEFITS TO EMPLOYEES. The corporation may provide for the payment of additional benefits to employees from their accumulated vacation, sick leave, or overtime credits if the employees of the corporation and any of its subsidiaries are entitled to the benefits of the Workers' Compensation Law and have at the time of compensable injury accumulated credits under a vacation, sick leave, or overtime plan or system maintained by the corporation. The additional payments to an employee may not exceed the amount of the total sick leave, vacation, or overtime credits accumulated by the employee and shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. The additional payments to any employee shall be charged against the sick leave, vacation, and overtime credits accumulated by the employee. Employees of the corporation and any of its subsidiaries entitled to the benefits of the Workers' Compensation Law may

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receive additional benefits pursuant to a collective bargaining agreement or other plan, entered into or in effect on or after January 1, 2003, providing payments by or on behalf of the employer, and these additional benefits may be unrelated to any accumulated sick leave, holiday, or overtime credits and need not be charged against any accumulation; provided that the additional payments must not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. The corporation and its subsidiaries may adopt rules and regulations consistent with chapter 179, to carry out the section relating to payment of additional benefits to employees from accumulated sick leave, vacation, overtime credits, or other sources.

Sec. 24. [383B.924] HOSPITAL AUTHORITIES.

The corporation shall not be considered a hospital or hospital district subject to section 144.581.

Sec. 25. [383B.925] TAX-EXEMPT STATUS.

The corporation is an organization exempt from taxation pursuant to chapters 290 and 297A.

Sec. 26. [383B.926] PREPAID HEALTH PLAN.

The corporation is a county-affiliated public teaching hospital for purposes of section 256D.03, subdivision 4.

Sec. 27. [383B.927] INTERGOVERNMENTAL TRANSFERS.

For purposes of medical assistance, Medicaid, Medicare, and other public programs, the corporation shall continue to be a "unit of state or local government" and a "government owned or operated hospital," and shall be eligible to receive "intergovernmental transfers" and "certified public expenditures" as may be authorized from time to time by the state of Minnesota or Hennepin County.

Sec. 28. [383B.928] INDIGENT CARE.

Subdivision 1. SERVICES. The corporation shall provide health care and related services for the indigent of the county as required by the terms of the lease as specified in section 383B.913, subdivisions 2 and 3, consistent with any agreement for payment for those services made with the county.

Subd. 2. FUNDS. Notwithstanding any law to the contrary, the county may provide funds for the purchase of medical care for the indigent of the county from a provider selected by the county with or without public bid.

Sec. 29. EFFECTIVE DATES.

(a) Sections 3 to 8, regarding governance and corporate powers; section 14, subdivision 1, regarding the establishment of personnel policies; and section 17, regarding the Minnesota Open Meeting Law and the Government Data Practices Act are effective when the initial board of the corporation is appointed by the county board.

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(b) The remaining sections of the bill are effective the day after the county board files a certificate of local approval in compliance with Minnesota Statutes, section 645.021, subdivision 3, after which the corporation shall commence operation and management of Hennepin County Medical Center.

ARTICLE 2

LABOR RELATIONS; RELATED ISSUES

Section 1. Minnesota Statutes 2004, section 179A.03, subdivision 7, is amended to read:

Subd. 7. **ESSENTIAL EMPLOYEE.** "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires. Employees for whom the state court administrator is the negotiating employer are not essential employees. For Hennepin Healthcare System, Inc. employees, "essential employees" means all employees.

Sec. 2. Minnesota Statutes 2004, section 179A.03, subdivision 14, is amended to read:

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

- (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

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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 the Board of Trustees of the Minnesota State Colleges and Universities to teach one course for three or fewer credits for one semester in a year;

(l) with respect to court employees:

(1) personal secretaries to judges;

(2) law clerks;

(3) managerial employees;

(4) confidential employees; and

(5) supervisory employees;

(m) with respect to employees of Hennepin Healthcare System, Inc., managerial, supervisory, and confidential employees.

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

(i) 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: (A) 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 (B) 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

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(ii) 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.

Sec. 3. Minnesota Statutes 2004, section 179A.03, subdivision 15, is amended to read:

Subd. 15. **PUBLIC EMPLOYER OR EMPLOYER.** "Public employer" or "employer" means:

(a) the state of Minnesota for employees of the state not otherwise provided for in this subdivision or section 179A.10 for executive branch employees;

(b) the Board of Regents of the University of Minnesota for its employees;

(c) the state court administrator for court employees;

(d) the state Board of Public Defense for its employees; and

(e) Hennepin Healthcare System, Inc.; and

(f) notwithstanding any other law to the contrary, the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees. However, the views of elected appointing authorities who have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of rights and duties under sections 179A.01 to 179A.25.

When two or more units of government subject to sections 179A.01 to 179A.25 undertake a project or form a new agency under law authorizing common or joint action, the employer is the governing person or board of the created agency. The governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency according to sections 179A.01 to 179A.25.

"Public employer" or "employer" does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Nothing in this subdivision diminishes the authority granted pursuant to law to an appointing authority with respect to the selection, direction, discipline, or discharge of an individual employee if this action is consistent with general procedures and standards relating to selection, direction, discipline, or discharge which are the subject of an agreement entered into under sections 179A.01 to 179A.25.

Sec. 4. Minnesota Statutes 2004, section 179A.06, subdivision 2, is amended to read:

Subd. 2. **RIGHT TO ORGANIZE.** Public employees have the right to form and join labor or employee organizations, and have the right not to form and join such

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organizations. Public employees in an appropriate unit have the right by secret ballot to designate an exclusive representative to negotiate grievance procedures and the terms and conditions of employment with their employer. Confidential employees of the state, confidential court employees, and confidential University of Minnesota employees are excluded from bargaining. Supervisory and managerial court employees are excluded from bargaining. Supervisory, managerial, and confidential employees of Hennepin Healthcare System, Inc., are excluded from bargaining. Other confidential employees, supervisory employees, principals, and assistant principals may form their own organizations. An employer shall extend exclusive recognition to a representative of or an organization of supervisory or confidential employees, or principals and assistant principals, for the purpose of negotiating terms or conditions of employment, in accordance with sections 179A.01 to 179A.25, applicable to essential employees.

Supervisory or confidential employee organizations shall not participate in any capacity in any negotiations which involve units of employees other than supervisory or confidential employees. Except for organizations which represent supervisors who are: (1) firefighters, emergency medical service employees certified under section 144E.28, 911 system public safety dispatchers, peace officers subject to licensure under sections 626.84 to 626.863, guards at correctional facilities, or employees at hospitals other than state hospitals; and (2) not state or University of Minnesota employees, a supervisory or confidential employee organization which is affiliated with another employee organization which is the exclusive representative of nonsupervisory or nonconfidential employees of the same public employer shall not be certified, or act as, an exclusive representative for the supervisory or confidential employees. For the purpose of this subdivision, affiliation means either direct or indirect and includes affiliation through a federation or joint body of employee organizations.

Sec. 5. [179A.40] HENNEPIN HEALTHCARE SYSTEM, INC.

Subdivision 1. UNITS. The following are the appropriate employee units of the Hennepin Healthcare System, Inc. All units shall exclude supervisors, managerial employees, and confidential employees. No additional units of Hennepin Healthcare System, Inc., shall be eligible to be certified for the purpose of meeting and negotiating with an exclusive representative. The units include all:

- (1) registered nurses;
- (2) physicians;
- (3) professionals except for registered nurses and physicians;
- (4) technical and paraprofessional employees;
- (5) carpenters, electricians, painters, and plumbers;
- (6) health general service employees;
- (7) interpreters;
- (8) emergency medical technicians/emergency medical dispatchers (EMT/EMD), and paramedics;

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(9) bioelectronics specialists, bioelectronics technicians, and electronics technicians;

(10) skilled maintenance employees; and

(11) clerical employees.

Subd. 2. NONCONFORMING UNITS. Preexisting Hennepin County Medical Center bargaining units covered by existing labor agreements on the day following final enactment of this act that do not conform to one of the 11 units described in subdivision 1 shall continue to be appropriate. If an employee representative seeks to represent employees who are residual to an existing nonconforming unit, then all of the employees who are residual to that unit shall be eligible to vote in an election conducted by the commissioner. An election shall be held when an employee organization or group of employees files a petition for an election and the petition is supported by a showing of interest from 30 percent or more of the employees who are residual to an existing nonconforming unit. The employees who are residual to an existing nonconforming unit shall be included within the existing nonconforming unit if a majority of the eligible employees who vote cast their ballots in favor of representation during an election conducted by the commissioner. Nothing shall preclude an exclusive representative and Hennepin Health Care System, Inc., or prior to the formation of the corporation Hennepin County, from agreeing to an election conducted by the commissioner or other appropriate procedure by which less than all of the employees who are residual to an existing nonconforming unit may be added to the unit.

Sec. 6. Minnesota Statutes 2004, section 383B.117, subdivision 2, is amended to read:

Subd. 2. EQUIPMENT ACQUISITION; CAPITAL NOTES. The board may, by resolution and without public referendum, issue capital notes within existing debt limits for the purpose of purchasing ambulance and other medical equipment, road construction or maintenance equipment, public safety equipment and other capital equipment having an expected useful life at least equal to the term of the notes issued. The notes shall be payable in not more than five years and shall be issued on terms and in a manner as the board determines. The total principal amount of the notes issued for any fiscal year shall not exceed one percent of the total annual budget for that year and shall be issued solely for the purchases authorized in this subdivision. A tax levy shall be made for the payment of the principal and interest on such notes as in the case of bonds. For purposes of this subdivision, the term "medical equipment" includes computer hardware and software and other intellectual property for use in medical diagnosis, medical procedures, research, record keeping, billing, and other hospital applications, together with application development services and training related to the use of the computer hardware and software and other intellectual property, all without regard to their useful life. For purposes of determining the amount of capital notes which the county may issue in any year, the budget of the county and Hennepin Healthcare System, Inc. shall be combined and the notes issuable under this subdivision shall be in addition to obligations issuable under section 373.01, subdivision 3.

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Sec. 7. Minnesota Statutes 2004, section 383B.217, subdivision 7, is amended to read:

Subd. 7. **PURCHASES AND MARKETING PURCHASING, CONTRACTING, MEETINGS, DATA.** (a) Contracting and purchasing made on behalf of the Hennepin County Medical Center and its health maintenance organization (HMO), ambulatory health center, or other clinics authorized under section 383B.219, of goods, materials, supplies, equipment, and services that are incidental to or that are included as part of a contract for the purchase of goods, materials, supplies, or equipment are specifically exempted from sections 383B.141 to 383B.151 and 471.345 or other applicable laws related to public procurement. Contracting and purchasing of services shall comply with sections 383B.141 to 383B.151 or other applicable laws related to public procurement.

(b) Notwithstanding chapter 13D, the county board on behalf of the ~~medical center~~ and HMO may meet in closed session to discuss and take action on specific products or services that are in direct competition with other providers of goods or services in the public or private sector, if disclosure of information pertaining to those matters would clearly harm the competitive position of the ~~medical center~~ or HMO.

(c) The ~~medical center~~ and HMO shall inform the county board when there are matters that are appropriate for discussion or action under paragraph (b). The county administrator or the administrator's designee shall give the board an opinion on the propriety of discussion or action under paragraph (b) for each of the matters. The county board may, by a majority vote in a public meeting, decide to hold a closed meeting under paragraph (b). The purpose, time, and place of the meeting must be announced at a public meeting. A written roll of members present at a closed meeting must be made available to the public after the closed meeting. The proceedings of a closed meeting must be tape recorded at the expense of the county board and be preserved for not less than five years after the meeting. The data on the tape are nonpublic data under section 13.02, subdivision 9, until two years after the meeting. A contract entered into by the county board at a meeting held on behalf of the ~~medical center~~ or HMO is subject to section 471.345. All bids and any related materials that are considered at the meeting must be retained for a period of not less than five years. After the expiration of the term of any contract entered into pursuant to this subdivision or a period of two years, whichever is less, the contract, the bids, and any related materials are public data. The contract, the bids, and any related materials are subject to review by the state auditor at any time.

(d) Data concerning specific products or services that are in direct competition with other providers of goods or services in the public or private sector are trade secret information for purposes of section 13.37, to the extent disclosure of information pertaining to the matters would clearly harm the competitive position of the ~~medical center~~ or HMO. The data are trade secret information for the term of the contract or a two-year period, whichever is less.

(e) Notwithstanding section 471.345 or other applicable law, the county board on behalf of the ~~medical center~~, HMO, ambulatory health center, or other clinics

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authorized under section 383B.219, may contract, except for services, by any means that the county board or at its direction the medical center or HMO, ambulatory health center, or other clinics authorized under section 383B.219, may determine. When contracting for services, the county board must comply with sections 383B.141 to 383B.151 and other applicable law, except that the board may contract with a private or public cooperative purchasing organization if it can be established that the purchasing organization's services that are purchased have been awarded through a competitive or request for proposal process.

(f) This subdivision applies to the medical center, HMO, ambulatory health centers, or other clinics authorized under section 383B.219, as well as any other organization, association, partnership, or corporation authorized by Hennepin County under section 144.581.

Sec. 8. **TRANSITION.**

Subdivision 1. INITIAL BOARD. For the first three years, the board of Hennepin Healthcare System, Inc., shall be governed by a board of directors consisting of 13 directors appointed by the county board according to the procedure specified in this act.

Subd. 2. INITIAL HUMAN RESOURCES SYSTEM. Input from Hennepin County Medical Center employees shall be obtained prior to the development of the human resources rules and policies for the new corporation and the rules and policies shall be finalized and the county board shall, by a single majority vote without amendment, approve the rules and policies and ratify labor agreements, prior to the county board's vote to file the certificate of local approval.

Sec. 9. **REPEALER.**

Minnesota Statutes 2004, section 383B.217, subdivisions 1, 2, 3, 4, 5, 6, and 8, are repealed.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 7 and 9 are effective on the date specified in article 1, section 29, paragraph (b). Section 8 is effective the day following final enactment.

ARTICLE 3

CONFORMING RETIREMENT CHANGES

Section 1. Minnesota Statutes 2004, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following public employees are not eligible to participate as members of the association with retirement coverage by the

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public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section

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410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1,

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1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the Metropolitan Airports Commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

Sec. 2. Minnesota Statutes 2004, section 353.01, subdivision 2d, is amended to read:

Subd. 2d. **OPTIONAL MEMBERSHIP.** (a) Membership in the association is optional by action of the individual employee for the following public employees who meet the conditions set forth in subdivision 2a:

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(1) members of the coordinated plan who are also employees of labor organizations as defined in section 353.017, subdivision 1, for their employment by the labor organization only if they elect to have membership under section 353.017, subdivision 2;

(2) persons who are elected or persons who are appointed to elected positions other than local governing body elected positions who elect to participate by filing a written election for membership;

(3) members of the association who are appointed by the governor to be a state department head and who elect not to be covered by the general state employees retirement plan of the Minnesota State Retirement System under section 352.021;

(4) city managers as defined in section 353.028, subdivision 1, who do not elect to be excluded from membership in the association under section 353.028, subdivision 2; and

(5) employees of the Port Authority of the city of St. Paul who were at least age 45 on January 1, 2003, and who elect to participate by filing a written election for membership.

(b) Membership in the association is optional by action of the governmental subdivision for the employees of the following governmental subdivisions under the conditions specified:

(1) the Minnesota Association of Townships if the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case the status of the association as a participating employer is permanent; and

(2) a county historical society if the county in which the historical society is located, at its option, certifies to the executive director that the employees of the historical society are to be county employees for purposes of retirement coverage under this chapter. The status as a county employee must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society; and

(3) Hennepin Healthcare System, Inc., a public corporation, with respect to employees other than paramedics, emergency medical technicians, and protection officers, if the corporate board establishes alternative retirement plans for certain classes of employees of the corporation and certifies the employees to be excluded from future retirement coverage.

(c) For employees who are covered by paragraph (a), clause (1), (2), or (3), or covered by paragraph (b), clause (1) or (2), if the necessary membership election is not made, the employee is excluded from retirement coverage under this chapter. For employees who are covered by paragraph (a), clause (4), if the necessary election is not made, the employee must become a member and have retirement coverage under this chapter. For employees specified in paragraph (b), clause (3), membership continues until the exclusion option is exercised for the designated class of employee. The option

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to become a member, once exercised under this subdivision, may not be withdrawn until termination of public service as defined under subdivision 11a.

Sec. 3. Minnesota Statutes 2004, section 353.01, subdivision 6, is amended to read:

Subd. 6. GOVERNMENTAL SUBDIVISION. (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, and the Dakota County Agricultural Society, and Hennepin Healthcare System, Inc.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

Sec. 4. Minnesota Statutes 2004, section 353.64, subdivision 10, is amended to read:

Subd. 10. PENSION COVERAGE FOR HENNEPIN COUNTY HEALTH-CARE SYSTEM, INC.; PARAMEDICS AND EMERGENCY MEDICAL TECHNICIANS. An employee of Hennepin County Healthcare System, Inc. who is:

(1) certified as a paramedic or emergency medical technician by the state under section 144E.28, subdivision 4;

(2) employed full time as a paramedic or emergency medical technician by Hennepin County on or after the effective date specified in Laws 1994, chapter 499, section 2; and

(3) not eligible after the effective date under Laws 1994, chapter 499, section 2, for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to paramedics and

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emergency medical technicians because the person's position is excluded after that date from application under United States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D), and section 355.07;

is a member of the public employees police and fire fund under sections 353.63 to 353.68.

Hennepin County Healthcare System, Inc. shall deduct the employee contribution from the salary of each full-time Hennepin County paramedic and emergency medical technician it employs as required by section 353.65, subdivision 2, shall make the employer contribution for each full-time Hennepin County paramedic and emergency medical technician it employs as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

Sec. 5. Minnesota Statutes 2004, section 353E.02, subdivision 2a, is amended to read:

Subd. 2a. **MEDICAL CENTER PROTECTION OFFICER.** (a) A medical center protection officer, for purposes of subdivision 1, is a person whom the employer certifies:

(1) is employed by the Hennepin County Medical Center Healthcare System, Inc. as a protection officer;

(2) is directly responsible for the direct security of the medical center;

(3) is expected to respond to any incidents within the medical center as part of the person's regular employment duties and is trained to do so; and

(4) is a "public employee" as defined in section 353.01, but is not a member of the public employees police and fire plan.

(b) The certification required under paragraph (a) must be made in writing on a form prescribed by the executive director of the Public Employees Retirement Association.

Sec. 6. Minnesota Statutes 2004, section 383B.46, is amended to read:

383B.46 SUPPLEMENTAL RETIREMENT ACCOUNT.

Subdivision 1. **ELIGIBILITY FOR COVERAGE.** Any person who was employed by the county of Hennepin or its agencies, boards, commissions, authorities and committees ~~prior to before~~ before April 14, 1982, as an employee or an officer in the classified service as defined in sections 383B.26 to 383B.42, or as an employee in the unclassified service, and who has served for five years as a county employee or an officer in the classified service, or as a county employee in the unclassified service, which need not necessarily be continuous, and which ~~shall~~ must include time served as a county employee ~~prior to before~~ before June 8, 1965, if the person is an employee in the classified service, ~~shall be of the county or if the person is an employee of Hennepin Healthcare System, Inc., is entitled to elect to obtain coverage by the Hennepin County supplemental retirement program.~~ is entitled to elect to obtain coverage by the Hennepin County supplemental retirement program. The election to obtain coverage may be exercised

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only once and shall must be exercised within 30 days of the date on which the person first becomes entitled to elect to obtain coverage. No person hired, rehired, or reinstated by the county as an employee in the classified or unclassified service on or after April 14, 1982, shall be is eligible for coverage by the Hennepin County supplemental retirement program.

Subd. 2. **ESTABLISHMENT OF ACCOUNT; CONTRIBUTIONS.** The county of Hennepin or Hennepin Healthcare System, Inc., whichever applies, shall deduct from the salary of every person who is eligible for coverage and who elected to retain or obtain coverage by the Hennepin County supplemental retirement program a sum equal to one percent of the total salary of the person. Any ~~classified or unclassified employee who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act shall not be included in the supplemental retirement account from and after March 30, 1978 unless the employee has as of the later of March 30, 1978 or the date of employment sufficient service credit in the public employees retirement fund or the Minneapolis municipal employees retirement fund, whichever is applicable, to meet the minimum vesting requirements for a deferred retirement annuity, or the county agrees in writing to make the required employer contributions on account of the individual from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the employee agrees in writing to make the required employer contribution in addition to the employee contribution.~~ The deduction shall be made in the same manner as other retirement deductions are made from the salary of the person. An amount equal to the amounts deducted during each payroll period shall must be contributed by the county of Hennepin or Hennepin Healthcare System, Inc., whichever applies. The total amount deducted and contributed shall must be deposited to the credit of the supplemental retirement account in the treasury of the county of Hennepin. The Hennepin County supplemental retirement account is hereby established as an account separate and distinct from other funds, accounts, or assets of the county of Hennepin.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective on the date specified in article 1, section 29, paragraph (b).

Presented to the governor May 31, 2005

Signed by the governor June 2, 2005, 5:40 p.m.

CHAPTER 126—S.F.No. 232

An act relating to education; permitting secondary students to carry and use nonprescription pain relief; proposing coding for new law in Minnesota Statutes, chapter 121A.

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

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