

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF EMPLOYEE RELATIONS

In the Matter of the Proposed
Adoption of Department of Employee
Relations Rules Relating to Local
Government Pay Equity Compliance,
Minnesota Rules, Parts 3920.0100 to
3920.1300.

REPORT OF THE
CHIEF ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subs. 3 and 4, which provide:

Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.

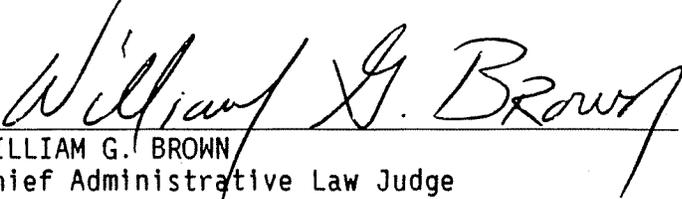
Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In Finding of Fact 23, the Administrative Law Judge concluded that the Department's failure to include a fiscal note in the Notice of Hearing constitutes a defect in the rule that will require republication or renote of the proposed rules with an adequate fiscal note in the Notice of Hearing.

For the reasons cited in Findings 12 through 23 of the Administrative Law Judge's Report, the Chief Administrative Law Judge accepts that conclusion. The Department did not meet the notice requirements of Minn. Stat. § 14.14, subd. 1 (a), in that the Notice did not contain the information required by law under Minn. Stat. § 14.11, subd. 1. Therefore, in order to adopt this rule, the Department must recommence this rulemaking proceeding by giving the proper statutory notice, proceeding either under Minn. Stat. § 14.14 or Minn. Stat. § 14.22, and complying with all related substantive and procedural requirements. The entire record of this hearing may be incorporated into that proceeding.

Dated: January 2nd, 1992.


WILLIAM G. BROWN
Chief Administrative Law Judge