

## CHAPTER 179

### LABOR RELATIONS

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#### 179.63 DEFINITIONS.

*[For text of subds 1 to 6, see M.S.1982]*

Subd. 7. "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 bargaining unit;

(f) employees who hold positions of a basically temporary or seasonal character for a period not in excess of 67 working days in any calendar year;

(g) employees who hold positions of a basically temporary character for a period not in excess of 100 working days in a calendar year, or part-time employees, who are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to their being hired by an employer and who have indicated, either in their 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 or part-time employment.

The exclusions of clauses (e) and (f) shall not apply to:

(1) an employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017 or for community services or community education instruction offered on a noncredit basis, to replace an absent teacher or faculty member who at the time of his absence is a "public employee" not within the other exclusions of this subdivision where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; and

(2) an employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017 or for community services or community education instruction offered on a noncredit basis, for a teaching position created by increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons.

The provisions of paragraphs (1) and (2) above do not apply to an individual hired to teach one course for up to four credits for one quarter in a year.

Community college and state university faculty members included pursuant to clauses (1) and (2) shall be included under master contracts commencing on or after July 1, 1983;

(h) employees providing services for not more than two consecutive quarters to the state university board or the community college board under the terms of a professional or technical services contract as defined in section 16.098;

(i) graduate assistants employed by the school in which they are enrolled in a graduate degree program;

(j) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(k) full-time undergraduate students employed by the school which they attend under a work study program or in connection with the receipt of any financial aid, irrespective of number of hours of service per week;

(l) an individual who renders part-time teaching service for less than 300 hours in a fiscal year as an instructor in an adult vocational education program.

*[For text of subd 8, see M.S.1982]*

Subd. 9. "Supervisory employee," when the reference is to other than essential employees as defined in subdivision 11, means a person who has authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend any of the aforesaid actions, if in connection with the foregoing the exercise of the authority is not merely routine or clerical in nature but requires the use of independent judgment. A determination of "supervisory employee" may be appealed to the public employment relations board.

Effective May 2, 1983, the removal of employees by the employer from nonsupervisory bargaining units for the purpose of designating the employees as "supervisory employees" shall require either the prior written agreement of the exclusive representative and the written approval of the director or a separate determination by the director before the redesignation is effective.

*[For text of subds 9a to 19, see M.S.1982]*

**History:** 1983 c 216 art 2 s 4; 1983 c 322 s 1; 1983 c 364 s 1,2

## **179.64 STRIKES AUTHORIZED.**

*[For text of subds 1 to 4, see M.S.1982]*

Subd. 5. **Review; appeal.** Any public employee is entitled to request the opportunity to establish that he did not violate the provisions of this section. The request shall be filed in writing with the officer or body having the power to remove the employee, within ten days after notice of termination is served upon him. The employing officer or body shall within ten days commence a proceeding at which the employee shall be entitled to be heard for the purpose of determining whether the provisions of this section have been violated by the public employee. If there are contractual grievance procedures, laws or rules establishing proceedings to remove the public employee, the hearing shall be conducted in accordance with whichever procedure the employee elects. The election shall be binding and shall terminate any right to the alternative procedures. The same proceeding may include more than one employee's employment status if the employees' defenses are identical, analogous or reasonably similar. The proceedings shall be under-

taken without unnecessary delay. Any person whose termination is sustained in the administrative or grievance proceeding may appeal in accordance with chapter 14.

*[For text of subd 6, see M.S.1982]*

**History:** 1983 c 247 s 77

## **179.66 RIGHTS AND OBLIGATIONS OF EMPLOYERS.**

*[For text of subd 1, see M.S.1982]*

Subd. 2. A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of the public employees in an appropriate unit regarding grievance procedures and the terms and conditions of employment, but the obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

The public employer's duty under this subdivision exists notwithstanding contrary provisions in a municipal charter, ordinance, or resolution. A provision of a municipal charter, ordinance, or resolution which limits or restricts a public employer from negotiating or from entering into binding contracts with exclusive representatives is superseded by this subdivision.

*[For text of subds 3 to 10, see M.S.1982]*

**History:** 1983 c 364 s 3

## **179.70 CONTRACTS; GRIEVANCES; ARBITRATION.**

Subdivision 1. A written contract or memorandum of contract containing the agreed upon terms and conditions of employment and such other matters as may be agreed upon by the employer and exclusive representative shall be executed by the parties. The duration of the contract shall be negotiable except in no event shall contracts be for a term exceeding three years. Any contract between employer school board and an exclusive representative of teachers shall in every instance be for a term of two years beginning on July 1 of each odd-numbered year. For contracts effective July 1, 1979 or thereafter, the written contract executed by an employer school board and an exclusive representative of teachers shall contain the teachers' compensation including fringe benefits for the entire two-year term and shall not contain a wage reopening clause or any other provision for the renegotiation of the teachers' compensation for the second year of the contract. All contracts shall include a grievance procedure which shall provide compulsory binding arbitration of grievances including all disciplinary actions. In the event that the parties cannot reach agreement on the grievance procedure, they shall be subject to the grievance procedure promulgated by the director pursuant to section 179.71, subdivision 5, clause (h). Employees covered by civil service systems created pursuant to chapters 43A, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, chapter 423, may pursue a redress of their grievances through the grievance procedure established pursuant to this section. When the resolution of a grievance is also within the jurisdiction of appeals boards or appeals procedures created by chapters 43A, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, chapter 423, the aggrieved employee shall have the option of pursuing redress through the grievance procedure or the civil service appeals procedure, but once a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with his

consent the employee's right to pursue redress in the alternative manner is terminated. This section does not require employers or employee organizations to negotiate on matters other than terms and conditions of employment as defined in section 179.63, subdivision 18.

*[For text of subds 2 to 6, see M.S.1982]*

**History:** 1983 c 216 art 1 s 33

## **179.71 DIRECTOR'S POWER, AUTHORITY AND DUTIES.**

*[For text of subds 1 to 7, see M.S.1982]*

Subd. 8. Hearings and mediation meetings authorized by this section shall be held at a time and place as is determined by the director, but, whenever practical, a hearing shall be held in the general geographic area where the question has arisen or exists.

**History:** 1983 c 364 s 4

## **179.72 PUBLIC EMPLOYMENT RELATIONS BOARD; POWERS AND DUTIES; ARBITRATION.**

Subdivision 1. There is hereby established a public employment relations board with the powers and duties assigned to it by this section. The board shall consist of five members appointed by the governor of the state of Minnesota. Two members shall be representative of public employees; two shall be representative of public employers; and one shall be representative of the public at large. Public employers and employee organizations representing public employees may submit for consideration names of persons representing their interests to serve as members of the board. The board shall select one of its members to serve as chairman for a term beginning May 1 each year.

*[For text of subds 1a to 12, see M.S.1982]*

**History:** 1983 c 305 s 20

## **179.741 STATE AND UNIVERSITY OF MINNESOTA EMPLOYEES; APPROPRIATE UNITS.**

Subdivision 1. **State employees.** Subject to the provisions of section 179.742, subdivision 5, all appropriate units of state employees certified as of April 25, 1980 are abolished. The following shall be the appropriate units of executive branch state employees for the purposes of sections 179.61 to 179.76. All units shall exclude employees excluded by section 179.74, subdivision 4 and supervisory employees shall only be assigned to units 12 and 16. Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. No additional units of executive branch state employees shall be recognized for the purpose of meeting and negotiating.

(1) **Law enforcement unit.** This unit shall consist of all sworn state patrol personnel, all uniformed conservation officers, and all criminal apprehension agents.

(2) **Craft, maintenance, and labor unit.** This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(3) Service unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(4) Health care nonprofessional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(5) Health care professional unit. This unit shall consist of all positions which are required to be filled by registered nurses.

(6) Clerical and office unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(7) Technical unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(8) Correctional Guards unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(9) State university instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(10) Community college instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(11) State university administrative unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(12) Professional engineering unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(13) Health treatment unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(14) General professional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(15) Professional state residential instructional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through May 4, 1982.

(16) Supervisory employees unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative

commission on employee relations on March 24, 1980, as amended through May 4, 1982.

Subd. 1a. **Unit 12 employees.** Notwithstanding the changes made in the composition of unit 12 by Laws 1983, chapters 287 and 299, employees in unit 12 shall continue to be treated as supervisory employees for purposes of the right to strike and for purposes of interest arbitration.

*[For text of subd 2, see M.S.1982]*

Subd. 3. **University of Minnesota.** Subject to the provisions of section 179.742, subdivision 5, the following shall be the appropriate units of University of Minnesota employees for the purposes of sections 179.61 to 179.76. All units shall exclude managerial and confidential employees and supervisory employees shall only be assigned to unit 12. No additional units of University of Minnesota employees shall be recognized for the purpose of meeting and negotiating.

(1) Law enforcement unit. This unit shall consist of the positions of all employees with the power of arrest.

(2) Craft and trades unit. This unit shall consist of the positions of all employees whose work requires specialized manual skills and knowledge acquired through formal training or apprenticeship or equivalent on-the-job training or experience.

(3) Service, maintenance and labor unit. This unit shall consist of the positions of all employees whose work is typically that of maintenance, service or labor and which does not require extensive previous training or experience, except as provided in unit 4.

(4) Health care nonprofessional and service unit. This unit shall consist of the positions of all nonprofessional employees of the University of Minnesota hospitals, dental school and health service whose work is unique to those settings, excluding labor and maintenance employees as defined in unit 3.

(5) Nursing professional unit. This unit shall consist of all positions which are required to be filled by registered nurses.

(6) Clerical and office unit. This unit shall consist of the positions of all employees whose work is typically clerical or secretarial, including nontechnical data recording and retrieval and general office work, except as provided in unit 4.

(7) Technical unit. This unit shall consist of the positions of all employees whose work is not typically manual and which requires specialized knowledge or skills acquired through two year academic programs or equivalent experience or on-the-job training, except as provided in unit 4.

(8) Twin Cities instructional unit. This unit shall consist of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, located on the Twin Cities campuses.

(9) Outstate instructional unit. This unit shall consist of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, located at the Duluth campus, provided that the positions of instructional employees of the same ranks at the Morris, Crookston or Waseca campuses shall be included within this unit if a majority of the eligible employees voting at a campus so vote during an election conducted by the director, provided that the election shall not be held until the Duluth campus has voted in favor of representation. The election shall be held when an employee organization or group of employees petitions the director stating that a majority of the eligible employees at one of

these campuses wishes to join the unit and this petition is supported by a showing of at least 30 percent support from eligible employees at that campus and is filed within 60 days of April 25, 1980 or, after January 1, 1981, during the period between September 1 and November 1.

(10) Graduate assistant unit. This unit shall consist of the positions of all graduate assistants who are enrolled in the graduate school and who hold the rank of research assistant, teaching assistant, teaching associate I or II, project assistant, or administrative fellow I or II.

(11) Noninstructional professional unit. This unit shall consist of the positions of all employees meeting the requirements of either clause (a) or (b) of section 179.63, subdivision 10, which are not defined as included within the instructional unit.

(12) Supervisory employees unit. This unit shall consist of the positions of all supervisory employees.

The employer shall petition the director within 90 days of April 25, 1980 indicating his position with respect to the allocation of all positions to the units provided in this subdivision. The employer shall serve a copy of the petition on the exclusive representatives of the affected employees. When the employer's position with respect to the positions to be included within a unit established by this subdivision is challenged by an employee organization petitioning under section 179.67, the director shall make a determination as to the allocation of the challenged positions under the language of subdivision 3. His determination shall be made within 60 days of receipt of the petitioning organization's challenge and may be appealed to the court of appeals. Should both units 8 and 9 each elect exclusive bargaining representatives, those representatives may by mutual agreement jointly negotiate a contract with the regents, or may negotiate separate contracts with the regents. If the exclusive bargaining representatives jointly negotiate a contract with the regents, the contract shall be ratified by each unit.

*[For text of subd 4, see M.S.1982]*

**History:** 1983 c 247 s 78; 1983 c 287 art 1 s 1,2; 1983 c 299 s 22,23

#### **179.7411 LIMITATION ON THE CONTRACTING-OUT OF SERVICES PROVIDED BY MEMBERS OF A STATE OF MINNESOTA OR UNIVERSITY OF MINNESOTA BARGAINING UNIT.**

Any contract entered into after March 23, 1982 by the state of Minnesota or the University of Minnesota involving services, any part of which, in the absence of the contract, would be performed by members of a unit provided in section 179.741, subdivision 1 or 3, shall be subject to section 16.07 and shall provide for the preferential employment by such a party of members of that unit whose employment with the state of Minnesota or the University of Minnesota is terminated as a result of that contract.

Contracts entered into by the state of Minnesota for the purpose of providing court reporter services or transcription of the record of a hearing which was recorded by means of an audio magnetic recording device shall be subject to section 16.098 and the preferential employment provisions enumerated in this section. Any court reporter seeking a contract pursuant to the preferential employment provisions of this section shall be given preference when the services are needed only if that court reporter's charges for the services requested are no greater than the average of the charges made for the identical services by other court reporters in the same locality who are also under contract with the state for those services.

**History:** 1983 c 301 s 153