

**179A.12 EXCLUSIVE REPRESENTATION; ELECTIONS; DECERTIFICATION.**

Subdivision 1. **Certification continued.** Any employee organization holding formal recognition by order of the commissioner or by employer voluntary recognition on the effective date of Extra Session Laws 1971, chapter 33, under any law that is repealed by Extra Session Laws 1971, chapter 33, is certified as the exclusive representative until it is decertified or another representative is certified in its place.

Any teacher organization as defined by Minnesota Statutes 1969, section 125.20, subdivision 3, which on the effective date of Extra Session Laws 1971, chapter 33, has a majority of its members on a teacher's council in a school district as provided in Minnesota Statutes 1969, section 125.22 is certified as the exclusive representative of all teachers of that school district until the organization is decertified or another organization is certified in its place.

Subd. 2. **Certification upon joint request.** The commissioner may certify an employee organization as an exclusive representative in an appropriate unit upon the joint request of the employer and the organization if, after investigation, the commissioner finds that no unfair labor practice was committed in initiating and submitting the joint request and that the employee organization represents over 50 percent of the employees in the appropriate unit. This subdivision does not reduce the time period or nullify any bar to the employee organization's certification existing at the time of the filing of the joint request.

Subd. 3. **Obtaining elections.** Any employee organization may obtain a certification election upon petition to the commissioner stating that at least 30 percent of the employees of a proposed appropriate unit wish to be represented by the petitioner. Any employee organization may obtain a representation election upon petition to the commissioner stating that the currently certified representative no longer represents the majority of employees in an established unit and that at least 30 percent of the employees in the established unit wish to be represented by the petitioner rather than by the currently certified representative. An individual employee or group of employees in a unit may obtain a decertification election upon petition to the commissioner stating the certified representative no longer represents the majority of the employees in an established unit and that at least 30 percent of the employees wish to be unrepresented.

Subd. 4. **State unit elections.** The commissioner shall not consider a petition for a decertification election during the term of a contract covering employees of the executive or judicial branches of the state of Minnesota except for a period from not more than 270 to not less than 210 days before its date of termination.

Subd. 5. **Commissioner to investigate.** The commissioner shall, upon receipt of an employee organization's petition to the commissioner under subdivision 3, investigate to

determine if sufficient evidence of a question of representation exists and hold hearings necessary to determine the appropriate unit and other matters necessary to determine the representation rights of the affected employees and employer.

Subd. 6. **Authorization signatures.** In determining the numerical status of an employee organization for purposes of this section, the commissioner shall require dated representation authorization signatures of affected employees as verification of the statements contained in the joint request or petitions. These authorization signatures shall be privileged and confidential information available to the commissioner only.

Subd. 7. **Election order.** The commissioner shall issue an order providing for a secret ballot election by the employees in a designated appropriate unit. The election must be held on one or more sites where those voting are employed or by a mail ballot, as determined by the commissioner. In making this determination, the commissioner shall strive for an election process that provides for maximum participation by the affected employees. The parties affected by this determination may request reconsideration of it by the commissioner under bureau rules.

Subd. 8. **Ballot.** The ballot in a certification election may contain as many names of representative candidates as have demonstrated that 30 percent of the employees in the unit desire them as their exclusive representative. The ballots shall contain a space for employees to indicate that no representation is desired. The commissioner shall provide and count absentee ballots in all elections.

Subd. 9. **Runoff election.** If no choice on the ballot receives a majority of those votes cast in the unit, the commissioner shall conduct a runoff election between the two choices receiving the most votes.

Subd. 10. **Certification.** Upon a representative candidate receiving a majority of those votes cast in an appropriate unit, the commissioner shall certify that candidate as the exclusive representative of all employees in the unit.

Subd. 11. **Unfair labor practices.** If the commissioner finds that an unfair labor practice was committed by an employer or representative candidate or an employee or group of employees, and that the unfair labor practice affected the result of an election, or that procedural or other irregularities in the conduct of the election may have substantially affected its results, the commissioner may void the election result and order a new election.

Subd. 12. **Bar to reconsideration.** When the commissioner certifies an exclusive representative, the commissioner shall not consider the question again for a period of one year, unless the exclusive representative is decertified by a court of competent jurisdiction, or by the commissioner.

**History:** *1984 c 462 s 13; 1986 c 444; 1987 c 186 s 15; 1987 c 384 art 2 s 46; 1990 c 546 s 5,6; 1992 c 582 s 10; 1999 c 216 art 7 s 13*