

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 1057 - Voluntary Unpaid Leave Options And Early Retirement Incentives For State Employees

Author: Senator Lawrence J. Pogemiller

Prepared by: Thomas S. Bottem, Senate Counsel (651/296-3810) *TJB*

Date: March 2, 2005

This bill provides several incentives for state agencies to offer employees as a means of managing the size and experience of the state workforce. The voluntary incentives include early retirement, phased retirement, and voluntary unpaid leaves of absences. Each of these incentives must be individually agreed upon by employer and employee. State agencies have discretion in deciding whether to offer the options and in deciding who may use the options.

Section 1 [EARLY RETIREMENT INCENTIVE.] Subdivision 1 [ELIGIBILITY.] authorizes agencies in the executive and legislative branches to offer early retirement incentives to employees who have at least five years of service in a state retirement fund who would be immediately eligible for an annuity upon retirement from the fund, and who leave state service after the effective date of this legislation and before September 1, 2005.

Subdivision 2 [INCENTIVE.] for employees who leave service before July 15, 2005, authorizes a contribution of \$15,000 for deposit in the employee's health care savings plan. For employees leaving service after July 15, 2005, and before September 1, 2005, authorizes a \$15,000 contribution to either: (1) the purchase of service credit for unperformed service if the purchased credit would be sufficient to allow the employee to retire; or (2) to purchase an annuity from the state's unclassified retirement plan for additional benefits.

Paragraph (b) authorizes employees to use money from their Deferred Compensation accounts to purchase additional service credit if the purchased credit would allow the employee to retire when combined with the \$15,000 payment for service credit authorized in this bill.

Subdivision 3 [DESIGNATION OF POSITIONS; EMPLOYER DISCRETION.] allows the appointing authority discretion to designate job classifications or positions within classifications that qualify for the incentive. Provides an exemption from Unfair Labor Practices under Minnesota Statutes, chapter 179A for the designation of these positions.

Section 2 [PHASED RETIREMENT.] provides a limited time authorization for state employees who are currently working more than 1,040 hours per year in a position covered by a state retirement plan to agree to reduce their work load below 1,040 hours per year in a covered position and to reduce the work load at least 25 percent from the number of regularly scheduled work hours. To be eligible for the special authorization provided under this section, the employee must be eligible for an unreduced retirement benefit from the plan at the time of entering into an agreement under this section.

Paragraph (b) authorizes the employee to begin receiving a retirement annuity from their plan without leaving state service.

Paragraph (c) requires that the employee and the employer agree on the employment arrangement and prohibits the employer from seeking waiver of any rights under a collective bargaining agreement from the employee. The employer retains discretion to determine whether the phased retirement benefit is available for employee.

Paragraph (d) prohibits the employee from earning any service credit in the retirement system while employed under this section.

Paragraph (e) specifies that employees working under this section remain members of the appropriate bargaining unit and are covered by the appropriate contract or compensation plan and continue to be eligible for health care coverage as provided in that contract or plan.

Paragraph (f) limits this arrangement to work done through June 30, 2007.

Section 3 [VOLUNTARY HOUR REDUCTION PLAN.] until June 30, 2007, this section would authorize eligible state employees to agree with their employer to reduce their work load below 1,040 hours per year and to continue making contributions to the applicable employment plan as if the employee had not reduced hours.

Paragraph (b) requires that the employee must pay additional employee contributions and the employer must pay the additional employer contributions necessary to fully fund the service credit as if there were no reduction in hours.

Paragraph (c) requires that the employer and employee must agree on the hours to be worked, the work scheduled and the duration of the reduction. The employer retains sole discretion to determine which employees may use this authorization and to what extent their hours may be reduced.

Section 4 [VOLUNTARY UNPAID LEAVE OF ABSENCE.] this section authorizes employers in state government to allow employees to take an unpaid leave of absence for up to 1,040 hours in a period between June 1, 2005, and June 30, 2007. Employees taking the leave may continue accruing vacation and sick leave, would remain eligible for holidays and insurance benefits, accrue seniority and service credit in retirement plans. If the employee is covered by the unclassified plan, the employee may continue making both the employee and employer contributions to the plan during the leave. Any compensation for holidays included in the leaves of absence must be included in the first payroll after returning from the leave. The employer retains discretion to grant or refuse the request for leave of absence.

Section 5 [RELATIONSHIP OF SECTIONS.] Paragraph (a) specifies that employees under a phased retirement agreement may not take advantage of voluntary unpaid leave of absence or voluntary hour reduction authorizations provided in this bill.

Paragraph (b) specifies that an employee voluntarily reducing hours under section 3 may enter into phased retirement agreement under section 2 only after completing the voluntary hour reduction agreement. The employee voluntarily reducing hours under section 3 may also be covered by the voluntary leave of absence under section 4 before or after the voluntary hour reduction agreement.

Paragraph (c) authorizes employees to receive the early retirement incentive after being covered under section 2, 3, or 4. Employees who take the early retirement incentive may not later take advantage of any other provisions of this bill.

Section 6 makes the bill effective the day following final enactment.

TSB:rer

Early Retirement Incentives

Section 1 Early Retirement Incentive

Eligibility: Five years of service
Immediate eligible to retire

Incentive: Employee retires on or before July 15, 2005
\$17,000 paid into the Health Care Savings Plan

Employee retires after July 15, 2005, and before September 1, 2005
Employee can use \$17,000 to buy higher monthly benefit
(Approximately \$100/month at age 62)

Or, employee can use \$17,000 to purchase service to qualify for the Rule of 90 at an earlier date. Employees can use DCP account to supplement \$17,000 state payment.

NOTE: \$17,000 an approximate cost of a layoff – 6 months of paid health insurance and unemployment benefits.

Section 2 Phased Retirement

Allows employees who are eligible for unreduced benefits (General Plan – Age 65, Rule of 90; Correctional Plan – Age 55) to begin collecting monthly benefits from MSRS without terminating employment as long as a full-time employee reduces their hours to 1044. An employee, who was working part-time, must reduce to 1044 hours or reduce hours by 25%, whichever is greater.

The employee would be eligible for paid health insurance as defined in the union contracts.

Severance pay would not be paid until the employee terminates state employment.

The employer can determine when the hours are worked. For example, the DNR may want employees to work full-time during the summer.

The employer may not continue the phased retirement position in less than a full-time position after it is vacated.

Section 3 *Voluntary Hour Reduction Plan*

Employees agree to work 1044 hours or less, the employee and employer pay the employee and employer contributions to MSRS as if their hours of work have not been reduced. This would allow employees to maintain their high-five average salary and service credit for the time while on this voluntary reduction plan.

Section 4 *Voluntary Unpaid Leave of Absence*

Currently employees can voluntarily go on an unpaid leave of absence for up to 320 hours during the biennium, and continue to receive health insurance, life insurance, retirement contributions and other benefits. If the leave falls in the high-five salary period, the person must pay the employee and employer contributions if they want to improve his/her high-five salary. This proposal expands the 320 hours to 1044 hours. It also clarifies that a person's high-five salary will be terminated during this period without making payment.

Section 5 *Relationship of Sections*

Clarifies that an employee cannot be under the phased retirement program while on the voluntary hour reduction or voluntary unpaid leave programs.

An employee could start under the voluntary hour reduction plan or the voluntary unpaid leave provision and later switch to the phased retirement program.

An employee cannot be on the voluntary unpaid leave of absence provision and the voluntary hour reduction program at the same time, but they could use both at different times.

An employee can use the voluntary unpaid leave of absence provision, phased retirement provision or voluntary hour reduction prior to retiring under the early retirement incentive provided in Section 1, but cannot later be covered under the phased retirement, voluntary leave, or unpaid leave of absence provisions.

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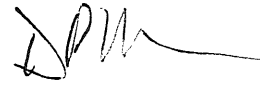
Senate

State of Minnesota

S.F. No. 1253 - Relating to the City of St. Paul

Author: Senator Sandra Pappas

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397)



Date: March 11, 2005

The proposed legislation allows the city of St. Paul to create a nonprofit organization to manage the RiverCentre complex and the convention and visitors bureau.

Section 1. Definitions section.

Section 2 creates the nonprofit organization.

Subdivision 1 provides the authority for St. Paul to create the nonprofit organization.

Subdivision 2 provides for the mayor to appoint a majority of the nonprofit's governing board, subject to the approval of the St. Paul City Council. Further requires the mayor to appoint three City Council members to the board and that the mayor is the only one who can remove mayoral appointees.

Subdivision 3 provides for the governing board to appoint a president of the nonprofit organization, subject to approval by the mayor.

Subdivision 4 exempts the nonprofit board from conflicts of interest with regard to contracts and transactions between the nonprofit and the city.

Section 3, subdivision 1, permits the city to contract with the nonprofit to equip, maintain, manage, and operate all or a portion of the RiverCentre complex and to manage and operate a convention and visitors bureau. The nonprofit would be authorized to use the city attorney services and the city's purchasing department.

Subdivision 2 requires the city to protect the bondholders' rights under the bonds for the RiverCentre complex and that the complex retains the same tax exemptions as it had when it was the responsibility of the city. Excludes the RiverCentre concert ticket sales from the sales tax exemption for nonprofit arts organizations.

Subdivision 3 requires the nonprofit organization to comply with the open meeting law and the government Data Practices Act, the same as the city would be required to, to the extent practicable.

Subdivision 4 makes the nonprofit organization the successor to the RiverCentre authority under certain enumerated laws and that the RiverCentre authority would cease to exist for as long as the city's contract with the nonprofit is in effect.

Section 4 makes the nonprofit organization a "municipality" for the purposes of the municipal tort liability statute and requires the city to defend and indemnify the nonprofit against claims arising out of the nonprofit's performance under the contract with the city.

Section 5. Local approval and effective date provision.

DPM:vs

Senators Pogemiller, Cohen, Kiscaden and Frederickson introduced--
S.F. No. 1057: Referred to State and Local Government Operations

1 A bill for an act

2 relating to state employment; providing voluntary
3 unpaid leave options and early retirement incentives
4 to state employees.

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

6 Section 1. [EARLY RETIREMENT INCENTIVE.]

7 Subdivision 1. [ELIGIBILITY.] An appointing authority in
8 the executive or legislative branch of state government may
9 offer the early retirement incentive in this section to an
10 employee who:

11 (1) has at least five years of allowable service in one or
12 more of the funds listed in Minnesota Statutes, section 356.30,
13 subdivision 3, and upon retirement is immediately eligible for a
14 retirement annuity from one or more of these funds; and

15 (2) terminates state service after the effective date of
16 this section and before September 1, 2005.

17 Subd. 2. [INCENTIVE.] (a) For an employee eligible under
18 subdivision 1, the employer may provide an amount up to \$15,000,
19 to be used:

20 (1) for an employee who terminates state service after the
21 effective date of this section and on or before July 15, 2005,
22 for deposit in the employee's account in the health care savings
23 plan established by Minnesota Statutes, section 352.98; or

24 (2) for an employee who terminates state service after July
25 15, 2005, and before September 1, 2005:

1 (i) notwithstanding Minnesota Statutes, section 352.01,
2 subdivision 11, for purchase of service credit for unperformed
3 service sufficient to enable the employee to retire under
4 Minnesota Statutes, section 352.116, subdivision 1, paragraph
5 (b); or

6 (ii) for purchase of a lifetime annuity or annuity for a
7 specific number of years from the state unclassified retirement
8 program to provide additional benefits under Minnesota Statutes,
9 section 352D.06, subdivision 1.

10 (b) An employee is eligible for the payment under paragraph
11 (a), clause (2), item (i), if the employee uses money from a
12 deferred compensation account that, combined with the payment
13 under paragraph (a), clause (2), item (i), would be sufficient
14 to purchase enough service credit to qualify for retirement
15 under Minnesota Statutes, section 352.116, subdivision 1,
16 paragraph (b).

17 Subd. 3. [DESIGNATION OF POSITIONS; EMPLOYER
18 DISCRETION.] Before offering an incentive under this section, an
19 appointing authority must designate the job classifications or
20 positions within job classifications that qualify for the
21 incentive. The appointing authority may modify this designation
22 at any time. Designation of positions eligible for the
23 incentive under this section, participation of individual
24 employees, and the amount of the payment under this section are
25 at the sole discretion of the appointing authority. Unilateral
26 implementation of this section by the employer is not an unfair
27 labor practice under Minnesota Statutes, chapter 179A.

28 Sec. 2. [PHASED RETIREMENT.]

29 (a) This section applies to a state employee who:

30 (1) on the effective date of this section is regularly
31 scheduled to work 1,040 or more hours a year in a position
32 covered by the Minnesota state retirement system general
33 employees retirement plan, correctional plan, or unclassified
34 plan;

35 (2) enters into an agreement with the appointing authority
36 to work a reduced schedule that is both (i) a reduction of at

1 least 25 percent from the number of regularly scheduled work
2 hours; and (ii) 1,040 hours or less in the covered position; and
3 (3) at the time of entering into the agreement under clause
4 (2), meets the age and service requirements necessary to receive
5 an unreduced retirement benefit from the plan.

6 (b) Notwithstanding any law to the contrary, for service
7 under an agreement entered into under paragraph (a), an employee:

8 (1) may receive a retirement annuity from the plan without
9 separating from state service; and

10 (2) is not subject to the cessation of annuity provisions
11 in Minnesota Statutes, section 352.115, subdivision 10.

12 (c) The amount of hours worked, the work schedule, and the
13 duration of the phased retirement employment must be mutually
14 agreed to by the employee and the appointing authority. The
15 appointing authority may not require a person to waive any
16 rights under a collective bargaining agreement as a condition of
17 participation under this section. The appointing authority has
18 sole discretion to determine if and the extent to which phased
19 retirement under this section is available to an employee.

20 (d) Notwithstanding any law to the contrary, a person may
21 not earn service credit in the Minnesota state retirement system
22 for employment covered under this section, and employer
23 contributions and payroll deductions for the retirement fund
24 must not be made based on earnings of a person working under
25 this section. No change shall be made to a monthly annuity or
26 retirement allowance based on employment under this section.

27 (e) A person who works under this section is a member of
28 the appropriate bargaining unit; is covered by the appropriate
29 collective bargaining contract or compensation plan; and is
30 eligible for health care coverage as provided in the collective
31 bargaining contract or compensation plan.

32 (f) An agreement under this section may apply only to work
33 through June 30, 2007.

34 Sec. 3. [VOLUNTARY HOUR REDUCTION PLAN.]

35 (a) This section applies to a state employee who:

36 (1) on the effective date of this section is regularly

1 scheduled to work 1,040 or more hours a year in a position
2 covered by a pension plan administered by the Minnesota state
3 retirement system; and

4 (2) enters into an agreement with the appointing authority
5 to work a reduced schedule of 1,040 hours or less in the covered
6 position.

7 (b) Notwithstanding any law to the contrary, for service
8 under an agreement entered into under paragraph (a),
9 contributions may be made to the applicable plan of the
10 Minnesota state retirement system as if the employee had not
11 reduced hours. The employee must pay the additional employee
12 contributions and the employer must pay the additional employer
13 contributions necessary to bring the service credit and salary
14 up to the level prior to the voluntary reduction in hours.
15 Contributions must be made in a time and manner prescribed by
16 the executive director of the Minnesota state retirement system.

17 (c) The amount of hours worked, the work schedule, and the
18 duration of the voluntary hour reduction must be mutually agreed
19 to by the employee and the appointing authority. The appointing
20 authority may not require a person to waive any rights under a
21 collective bargaining agreement as a condition of participation
22 under this section. The appointing authority has sole
23 discretion to determine if and the extent to which voluntary
24 hour reduction under this section is available to an employee.

25 (d) A person who works under this section is a member of
26 the appropriate bargaining unit; is covered by the appropriate
27 collective bargaining contract or compensation plan; and is
28 eligible for health care coverage as provided in the collective
29 bargaining contract or compensation plan.

30 (e) An agreement under this section may apply only to work
31 through June 30, 2007.

32 Sec. 4. [VOLUNTARY UNPAID LEAVE OF ABSENCE.]

33 Appointing authorities in state government may allow each
34 employee to take unpaid leaves of absence for up to 1,040 hours
35 between June 1, 2005, and June 30, 2007. Each appointing
36 authority approving such a leave shall allow the employee to

1 continue accruing vacation and sick leave, be eligible for paid
2 holidays and insurance benefits, accrue seniority, and accrue
3 service credit and credited salary in the state retirement plans
4 as if the employee had actually been employed during the time of
5 leave. An employee covered by the unclassified plan may
6 voluntarily make both the employee and employer contributions to
7 the unclassified plan during the leave of absence. If the leave
8 of absence is for one full pay period or longer, any holiday pay
9 shall be included in the first payroll warrant after return from
10 the leave of absence. The appointing authority shall attempt to
11 grant requests for the unpaid leaves of absence consistent with
12 the need to continue efficient operation of the agency.
13 However, each appointing authority shall retain discretion to
14 grant or refuse to grant requests for leaves of absence and to
15 schedule and cancel leaves, subject to the applicable provisions
16 of collective bargaining agreements and compensation plans.

17 Sec. 5. [RELATIONSHIP OF SECTIONS.]

18 (a) An employee covered by a phased retirement agreement
19 under section 2 may not be covered by the voluntary hour
20 reduction provisions of section 3 or by a voluntary unpaid leave
21 of absence agreement under section 4 during the same time period
22 or any later time period.

23 (b) An employee covered by the voluntary hour reduction
24 provisions of section 3:

25 (1) may not be covered by a phased retirement agreement
26 under section 2 during the same time period, but may be covered
27 by a phased retirement agreement under section 2 during a later
28 time period; and

29 (2) may be covered by the voluntary leave of absence
30 provision of section 4 during an earlier or later time period.

31 (c) An employee may receive the early retirement incentive
32 in section 1 after being covered under section 2, 3, or 4. An
33 employee who receives an incentive under section 1 may not later
34 be covered by section 2, 3, or 4.

35 Sec. 6. [EFFECTIVE DATE.]

36 Sections 1 to 5 are effective the day following final

01/26/05

[REVISOR] CMG/MD 05-2036

1 enactment.

1 Senator moves to amend S.F. No. 1057 as
2 follows:

3 Page 1, line 18, delete "\$15,000" and insert "\$17,000"

4 Page 2, line 28, delete "PHASED RETIREMENT" and insert
5 "POSTRETIREMENT EMPLOYMENT"

6 Page 2, line 31, delete "1,040" and insert "1,044"

7 Page 3, line 2, delete "1,040" and insert "1,044"

8 Page 3, line 19, after the period, insert "Upon expiration
9 of an agreement entered into under this section, the appointing
10 authority must restore the position to its status prior to the
11 agreement."

PAGE 4, LINE 4, DELETE "1,040" AND INSERT "1,044"
PAGE 4 LINE 5, DELETE "1,040" AND INSERT "1,044"
PAGE 4 LINE 34, DELETE "1,040" AND INSERT "1,044"

1 Senator moves to amend S.F. No. 1057 as follows:

2 Page 1, line 8, after "government" insert "or the Board of

3 Public Defense"

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1057: A bill for an act relating to state
4 employment; providing voluntary unpaid leave options and early
5 retirement incentives to state employees.

6 Reports the same back with the recommendation that the bill
7 be amended as follows:

8 Page 1, line 8, after "government" insert "or the Board of
9 Public Defense"

10 Page 1, line 18, delete "\$15,000" and insert "\$17,000"

11 Page 2, line 28, delete "PHASED RETIREMENT" and insert
12 "POSTRETIREMENT EMPLOYMENT"

13 Page 2, line 31, delete "1,040" and insert "1,044"

14 Page 3, line 2, delete "1,040" and insert "1,044"

15 Page 3, line 19, after the period, insert "Upon expiration
16 of an agreement entered into under this section, the appointing
17 authority must restore the position to its status prior to the
18 agreement."

19 Page 4, line 1, delete "1,040" and insert "1,044"

20 Page 4, line 5, delete "1,040" and insert "1,044"

21 Page 4, line 34, delete "1,040" and insert "1,044"

22 And when so amended the bill do pass and be re-referred to
23 the Committee on Finance. Amendments adopted. Report adopted.

24
25 
26
27 (Committee Chair)

28 March 14, 2005.....
29 (Date of Committee recommendation)

Senators Pappas, Moua, Anderson and Cohen introduced--

S.F. No. 1253: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to local government; authorizing the city of
3 St. Paul to participate in the creation of, and to
4 contract with, a nonprofit organization for management
5 and operation of the RiverCentre complex.

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

7 Section 1. [DEFINITIONS.]

8 Subdivision 1. [APPLICATION.] For the purposes of this
9 act, the terms defined in this section have the meanings given
10 them.

11 Subd. 2. [CITY.] "City" means the city of St. Paul, its
12 mayor, city council, and any other board, authority, commission,
13 or officer authorized by law, charter, or ordinance to exercise
14 city powers of the nature referred to in this act.

15 Subd. 3. [RIVERCENTRE COMPLEX.] "RiverCentre complex"
16 means collectively the auditorium, convention, conference and
17 education center, arena, and parking ramp facilities presently
18 and commonly known as the Roy Wilkins Auditorium, St. Paul
19 RiverCentre, Xcel Energy Center, and RiverCentre Parking Ramp,
20 including all property, real or personal, tangible or
21 intangible, located in the city, intended to be used as part of
22 the RiverCentre complex or additions to or extensions of it.

23 Sec. 2. [ST. PAUL; CREATION OF NONPROFIT ORGANIZATION.]

24 Subdivision 1. [AUTHORITY TO CREATE A NONPROFIT
25 ORGANIZATION.] As required under Minnesota Statutes, section

1 465.717, and notwithstanding any other law, city charter
2 provision, or ordinance to the contrary, the city of St. Paul
3 may participate in the creation of a nonprofit organization for
4 the purposes provided in this act.

5 Subd. 2. [GOVERNING BOARD; APPOINTMENT PROCESS.] (a) The
6 mayor of the city, subject to approval by the city council,
7 shall appoint a majority of the members of the governing board
8 of the nonprofit organization performing all or a part of the
9 activities necessary to carry out the purposes specified in this
10 act. The mayor of the city may designate any officer or
11 employee of the city to serve as a member of the governing board
12 of any nonprofit organization.

13 (b) In addition to the appointments made by the mayor under
14 paragraph (a), the mayor of the city shall designate three
15 members of the city council to serve on the governing board of
16 the nonprofit organization.

17 (c) Notwithstanding any provision contained in the articles
18 of incorporation and bylaws of the nonprofit organization, any
19 member of the governing board appointed by the mayor may be
20 removed only by the mayor of the city for cause.

21 Subd. 3. [PRESIDENT.] The governing board of the nonprofit
22 organization shall select, subject to the approval of the mayor
23 of the city, a president to serve as chief executive officer and
24 general manager of the nonprofit organization.

25 Subd. 4. [CONFLICTS OF INTEREST.] The procedures in
26 Minnesota Statutes, section 317A.255, subdivision 1, paragraph
27 (b), relating to director conflicts of interest, are not
28 required if the contract or other transaction is between the
29 city and the nonprofit organization.

30 Sec. 3. [RIVERCENTRE MANAGEMENT; OPERATIONS CONTRACT.]

31 Subdivision 1. [AUTHORITY TO CONTRACT WITH NONPROFIT
32 ORGANIZATION.] The city may enter into an agreement with the
33 nonprofit organization created in section 2 to equip, maintain,
34 manage, and operate all or a portion of the RiverCentre complex
35 and to manage and operate a convention bureau to market and
36 promote the city as a tourist or convention center. Except as

1 otherwise provided in this act, the nonprofit organization may
2 only contract and utilize and expend funds for these purposes
3 under the direction of its governing board, subject to the
4 accounting, financial reporting, and other conditions that the
5 city may prescribe in a contract made under this act between the
6 city and the nonprofit organization. The nonprofit organization
7 may use the services of the office of the city attorney and the
8 city's purchasing department. All activities performed to carry
9 out these purposes are deemed to be for a public purpose.

10 Subd. 2. [BONDHOLDERS' RIGHTS AND RIVERCENTRE COMPLEX TAX
11 EXEMPTIONS PRESERVED.] (a) The city must protect the rights of
12 holders of bonds issued for the RiverCentre complex, including
13 preserving the tax-exempt status of the bonds.

14 (b) The use and operation of the RiverCentre complex by the
15 nonprofit organization with which the city contracts under this
16 act is a use, lease, or occupancy for public, governmental, and
17 municipal purposes, and the complex is exempt from taxation by
18 the state or any political subdivision of the state during such
19 use, to the extent it would be exempt if the complex was
20 equipped, maintained, managed, and operated by the city.

21 (c) Gross receipts of tickets and admissions to events at
22 the RiverCentre complex sponsored by the nonprofit organization
23 created in section 2 do not qualify for the sales tax exemption
24 under Minnesota Statutes, section 297A.70, subdivision 10.

25 Subd. 3. [APPLICABLE GENERAL LAWS.] The following statutes
26 apply to the nonprofit organization with which the city
27 contracts under this act the same as they apply to the city, to
28 the extent practicable:

29 (a) Minnesota Statutes, chapter 13D, the Minnesota Open
30 Meeting Law; and

31 (b) Minnesota Statutes, chapter 13, the Government Data
32 Practices Act.

33 Subd. 4. [SUCCESSION.] The nonprofit organization with
34 which the city contracts under this act is the successor to all
35 powers, rights, assets, privileges, and interests held and
36 enjoyed by the RiverCentre authority on the effective date of

1 this act, and established by the provisions of Laws 1967,
2 chapter 459, sections 1, 2, 4, and 8, subdivisions 2 and 3,
3 clause (3), as amended; Laws 1982, chapter 523, article 25,
4 sections 4 and 5, as amended; Laws 1998, chapter 404, sections
5 81 and 82; and Minnesota Statutes, section 297A.98. On the
6 effective date of the contract between the city and the
7 nonprofit organization authorized by this act, the RiverCentre
8 authority ceases to exist for only so long as the contract is in
9 effect, and all other laws or provisions specifically relating
10 to the RiverCentre authority and the RiverCentre complex that
11 are not otherwise referenced in this act, do not apply to the
12 nonprofit organization.

13 Sec. 4. [LIABILITY.]

14 The nonprofit organization with which the city contracts
15 under this act is a "municipality," and the officers, directors,
16 employees, and agents of the nonprofit organization are
17 "employees, officers, or agents," under Minnesota Statutes,
18 chapter 466, relating to tort liability. The city must defend,
19 save harmless, and indemnify the nonprofit organization,
20 including the nonprofit's officers, directors, employees, and
21 agents, against any claim or demand arising out of the nonprofit
22 organization's performance under the contract.

23 Sec. 5. [EFFECTIVE DATE.]

24 This act is effective the day after the city council and
25 the chief clerical officer of the city of St. Paul have timely
26 completed their compliance with Minnesota Statutes, section
27 645.023, subdivisions 2 and 3.

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1253: A bill for an act relating to local
4 government; authorizing the city of St. Paul to participate in
5 the creation of, and to contract with, a nonprofit organization
6 for management and operation of the RiverCentre complex.

7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Judiciary.
9 Report adopted.

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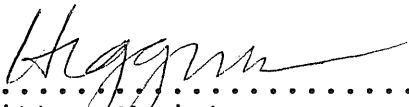
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.....
(Committee Chair)

March 14, 2005.....
(Date of Committee recommendation)

1 A bill for an act

2 relating to waters; providing for administrative
3 penalty orders; providing civil penalties; requiring
4 an implementation plan; providing a rulemaking
5 exemption; proposing coding for new law in Minnesota
6 Statutes, chapter 103G.

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

8 Section 1. [103G.252] [ADMINISTRATIVE PENALTY ORDERS.]

9 The commissioner may issue an order requiring violations to
10 be corrected and administratively assessing monetary penalties
11 for violations of chapters 103F and 103G, rules, orders,
12 agreements, settlements, licenses, registrations, or permits for
13 activities affecting the course, current, or cross section of
14 public waters or appropriating or diverting waters of the
15 state. The commissioner must follow the procedures in section
16 103G.253 when issuing an administrative penalty order. The
17 maximum monetary amount of an administrative penalty order is
18 \$10,000 for each violator for all violations by that violator
19 identified in an inspection or review of compliance.

20 Sec. 2. [103G.253] [ADMINISTRATIVE PENALTY ORDER
21 PROCEDURE.]

22 Subdivision 1. [CONTENTS OF ORDER.] An order assessing an
23 administrative penalty under section 103G.252 must include:

24 (1) a concise statement of the facts alleged to constitute
25 a violation;

26 (2) a reference to the law, rule, order, agreement,

1 settlement, license, registration, or permit that has been
2 violated;

3 (3) a statement of the corrective order and the amount of
4 the administrative penalty to be imposed and the factors upon
5 which it is based; and

6 (4) a statement of the person's right to review the order.

7 Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) In
8 determining the amount or requirements of a penalty under
9 section 103G.252, the commissioner may consider:

10 (1) the willfulness of the violation;

11 (2) the gravity of the violation, including damage to
12 humans, animals, air, water, land, forests, or other natural
13 resources of the state;

14 (3) the history of past violations;

15 (4) the number of violations;

16 (5) the economic benefit gained by the person by allowing
17 or committing the violation; and

18 (6) other factors as justice may require, if the
19 commissioner specifically identifies the additional factors in
20 the commissioner's order.

21 (b) For a second or subsequent violation, the commissioner
22 shall, in determining the amount or requirements of a penalty,
23 consider:

24 (1) the factors in paragraph (a);

25 (2) the similarity of the most recent previous violation
26 and the violation to be penalized;

27 (3) the time elapsed since the last violation;

28 (4) the number of previous violations; and

29 (5) the response of the person to the most recent previous
30 violation identified.

31 Subd. 3. [CORRECTIVE ORDER.] (a) The commissioner may
32 issue an order requiring the violations cited in the order to be
33 corrected within the time period specified in the order.

34 Corrective orders may require repair, restoration, replacement,
35 and monetary restitution as determined by the commissioner.

36 (b) The person to whom the order was issued shall provide

1 information to the commissioner before the 31st day after the
2 order was received demonstrating that the violation has been
3 corrected or that the person has developed a corrective plan.
4 The commissioner shall determine whether the violation has been
5 corrected or whether the corrective plan is acceptable and
6 notify the person to whom the order was issued of the
7 commissioner's determination.

8 Subd. 4. [PENALTY.] (a) Except as provided in paragraph
9 (c), if the commissioner determines that the violation has been
10 corrected or the person to whom the order was issued has
11 developed a corrective plan acceptable to the commissioner, the
12 monetary penalty may be forgiven in whole or in part.

13 (b) Unless the person requests review of the order under
14 subdivision 5 before the monetary penalty is due, the penalty in
15 the order is due and payable on the 31st day after the order was
16 received.

17 (c) For repeated or serious violations, the commissioner
18 may issue an order with a monetary penalty that shall not be
19 forgiven after the corrective action is taken.

20 (d) Interest at the rate established in section 549.09
21 begins to accrue on penalties under this subdivision on the 31st
22 day after the order with the penalty was received.

23 Subd. 5. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30
24 days after receiving an order, the person to whom the order was
25 issued may request an expedited hearing, using the procedures
26 adopted under section 14.51, to review the commissioner's
27 action. The hearing request must specifically state the reasons
28 for seeking review of the order. The person to whom the order
29 was issued and the commissioner are the parties to the expedited
30 hearing. The commissioner must notify the person to whom the
31 order was issued of the time and place of the hearing at least
32 15 days before the hearing. The expedited hearing must be held
33 within 30 days after a request for hearing has been filed with
34 the commissioner unless the parties agree to a later date.

35 (b) All written arguments must be submitted within ten days
36 following the close of the hearing. The hearing shall be

1 conducted according to rules adopted under section 14.51, as
2 modified by this subdivision. The Office of Administrative
3 Hearings may, in consultation with the commissioner of natural
4 resources, adopt rules specifically applicable to cases under
5 this section.

6 (c) The administrative law judge shall issue a report
7 making recommendations about the commissioner's action to the
8 commissioner within 30 days following the close of the record.
9 The administrative law judge may not recommend a change in the
10 amount of the proposed penalty or corrective order unless the
11 administrative law judge determines that, based on the factors
12 in subdivision 2, the monetary penalty or corrective order is
13 unreasonable.

14 (d) If the administrative law judge makes a finding that
15 the hearing was requested solely for purposes of delay or that
16 the hearing request was frivolous, the commissioner may add to
17 the amount of the penalty the costs charged to the Department of
18 Natural Resources by the Office of Administrative Hearings for
19 the hearing.

20 (e) If the administrative law judge issues a report that
21 recommends dismissal of the order assessing the administrative
22 penalty, the commissioner must refund the costs charged to the
23 person receiving the order. For purposes of this paragraph, the
24 administrative law judge may recommend attorney fees to be
25 refunded, not to exceed the amount of the penalty order.

26 (f) If a hearing has been held, the commissioner may not
27 issue a final order until at least five days after receipt of
28 the report of the administrative law judge. The person to whom
29 the order was issued may, within those five days, comment to the
30 commissioner on the recommendations and the commissioner must
31 consider the comments. The final order may be appealed
32 according to sections 14.63 to 14.69.

33 (g) If a hearing has been held and a final order issued by
34 the commissioner, the penalty must be paid within 30 days after
35 the date the final order is received and the corrective action
36 must be completed within the time period specified by the final

1 order, unless review of the final order is requested under
2 sections 14.63 to 14.69. If review is not requested or the
3 order is reviewed and upheld, the amount due is the penalty,
4 together with interest accruing from 31 days after the original
5 order was received at the rate established in section 549.09.

6 Subd. 6. [ALTERNATIVE DISPUTE RESOLUTION.] In addition to
7 review under subdivision 5, the commissioner may enter into
8 mediation or other alternative dispute resolution concerning an
9 order issued under this section if the commissioner and the
10 person to whom the order was issued both agree to mediation or
11 other alternative dispute resolution.

12 Subd. 7. [ENFORCEMENT.] (a) The attorney general may
13 proceed on behalf of the state to enforce penalties that are due
14 and payable under this section in any manner provided by law for
15 the collection of debts.

16 (b) The attorney general may petition the district court to
17 file the administrative order as an order of the court. At any
18 court hearing, the only issues parties may contest are
19 procedural and notice issues. Once entered, the administrative
20 order may be enforced in the same manner as a final judgment of
21 the district court.

22 (c) If a person fails to pay the penalty or comply with a
23 corrective order, the attorney general may bring a civil action
24 in district court seeking payment of the penalties, injunctive
25 relief, or other appropriate relief including monetary damages,
26 attorney fees, costs, and interest.

27 Subd. 8. [REVOCATION AND SUSPENSION OF PERMIT, LICENSE, OR
28 REGISTRATION.] If a person fails to pay a penalty owed under
29 this section, the commissioner may revoke or refuse to reissue
30 or renew a permit, license, or registration issued by the
31 commissioner.

32 Subd. 9. [CUMULATIVE REMEDY.] The authority of the
33 commissioner to issue a corrective order assessing penalties is
34 in addition to other remedies available under statutory or
35 common law, except that the state may not seek civil penalties
36 under any other provision of law for the violations covered by

1 the administrative penalty order. The payment of a penalty does
2 not preclude the use of other enforcement provisions, under
3 which penalties are not assessed, in connection with the
4 violation for which the penalty was assessed.

5 Sec. 3. [103G.254] [RECOVERY OF LITIGATION COSTS AND
6 EXPENSES.]

7 In any judicial action brought by the attorney general for
8 civil penalties, injunctive relief, or an action to compel
9 performance under section 103G.253, if the state finally
10 prevails and if the proven violation was willful, the state, in
11 addition to other penalties provided by law, may be allowed an
12 amount determined by the court to be the reasonable value of all
13 or part of the litigation expenses incurred by the state. In
14 determining the amount of the litigation expenses to be allowed,
15 the court shall give consideration to the economic circumstances
16 of the defendant.

17 Sec. 4. [IMPLEMENTATION PLAN; RULEMAKING EXEMPTION.]

18 The commissioner of natural resources shall prepare a plan
19 to implement the administrative penalty order according to
20 sections 1 to 3. The commissioner shall provide a 30-day period
21 for public comment on the plan. The plan must be finalized by
22 December 31, 2005. The plan is exempt from the rulemaking
23 procedures under Minnesota Statutes, chapter 14, and Minnesota
24 Statutes, section 14.386, does not apply.

1 Senator moves to amend S.F. No. 686 as follows:
2 Page 6, line 17, after "PLAN" insert "EXPEDITED" and delete
3 "EXEMPTION" and insert "PROCEDURE"
4 Page 6, line 20, delete everything after "commissioner"
5 Page 6, delete lines 21 to 23
6 Page 6, line 24, delete everything before the period, and
7 insert "shall use the expedited rulemaking procedure in
8 Minnesota Statutes, section 14.389, to adopt the plan"

ADMINISTRATIVE PENALTY ORDER (APO)

Summary

This bill provides authority to the Commissioner to issue civil citations in the form of fines and/or orders for corrective action for egregious and repeat violations of DNR water program laws and rules dealing with floodplain, shoreland, wild and scenic rivers, water appropriations and work in public waters. This Administrative Penalty Order (APO) authority is above and beyond existing enforcement mechanisms, and as civil proceedings, would reduce the need for criminal proceedings to protect and manage our water resources.

It is needed because

DNR needs more effective, flexible and efficient means of dealing with persons or organizations that willfully commit violations or very severely impact our water and related land resources. In some cases traditional enforcement mechanisms have not been effective because:

- Fines levied have not been sufficient to deter or change the behavior; or
- Courts are reluctant to address resource violations through criminal proceedings given higher priority criminal cases.

APOs take less time than going through administrative hearings or criminal proceedings and should reduce legal costs for all parties. APO recipients are still eligible to request an expedited administrative hearing.

The maximum penalty under an APO is \$10,000 for each violator for all violations identified in an inspection or review report. It is expected that there will be few orders at the maximum penalty amount. The actual amount of the penalty is based on several factors including the willfulness and the degree of damage to the water resources. All or part of this penalty can be forgiven if appropriate corrective actions are taken. This bill allows the state to recover reasonable legal and enforcement expenses if the state prevails and the violation is proven to be willful, and also allows the recipient of an order to recover some attorney's fees if the order is dismissed.

Financial implications

Penalties collected will go to the General Fund.

Background

DNR does have certain enforcement powers for dealing with water violations but they are limited to Cease and Desist Orders, Commissioner's Restoration Orders, or criminal citations.

The Departments of Health and Agriculture and the Pollution Control Agency already use APO authority and this provides greater flexibility in dealing with violations of pesticide, water well, feedlot and solid waste regulations.

This bill was developed using language from the Non-Felony Enforcement Advisory Committee that evaluated alternatives to traditional court actions about five years ago.

DNR will develop an implementation plan defining how APO will be administered before the authority is implemented. This plan will be developed in lieu of rules and will be completed by December 31, 2005.

For further information contact:

Kent Lokkesmoe, Director
DNR Division of Waters
(651) 296-4810
kent.lokkesmoe@dnr.state.mn.us

January 25, 2005

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was re-referred

3 S.F. No. 686: A bill for an act relating to waters;
4 providing for administrative penalty orders; providing civil
5 penalties; requiring an implementation plan; providing a
6 rulemaking exemption; proposing coding for new law in Minnesota
7 Statutes, chapter 103G.

8 Reports the same back with the recommendation that the bill
9 be amended as follows:

10 Page 6, line 17, after "PLAN" insert "EXPEDITED" and delete
11 "EXEMPTION" and insert "PROCEDURE"

12 Page 6, line 20, delete everything after "commissioner" and
13 insert "shall use the expedited rulemaking procedure in
14 Minnesota Statutes, section 14.389, to adopt the plan."

15 Page 6, delete lines 21 to 24

16 And when so amended the bill do pass and be re-referred to
17 the Committee on Judiciary. Amendments adopted. Report adopted.

19
20 (Committee Chair)

21
22 March 14, 2005.....
23 (Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

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State of Minnesota

S.F. No. 1146 -Clarifying the County Agriculture Society Exemption from Local Zoning Ordinances

Author: Senator Jim Vickerman

Prepared by: Daniel P. McGowan, Senate Counsel (651/296-4397)



Date: March 11, 2005

The proposed legislation specifically places in statute what has been a longstanding presumption that county fairgrounds are exempt from local zoning ordinances throughout the year.

Section 1 amends a law initially enacted shortly after Minnesota statehood that allowed the citizens of any county or group of counties to organize an agricultural society and purchase real property where the society could hold a county fair. The new language specifically provides that the grounds are exempt from local zoning ordinances throughout the year.

Section 2 provides a definition of "agricultural fair purposes," in Minnesota Statutes, section 38.16, which exempts county fair lands from zoning ordinances to indicate that management of fairground property is a year-round function.

DPM:vs

Senator Vickerman introduced--

S.F. No. 1146: Referred to the Committee on State and Local Government Operations.

1 A bill for an act
2 relating to agriculture; clarifying the county
3 agricultural society exemption from local zoning
4 ordinances; amending Minnesota Statutes 2004, sections
5 38.01; 38.16.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
7 Section 1. Minnesota Statutes 2004, section 38.01, is
8 amended to read:
9 38.01 [COUNTY AGRICULTURAL SOCIETIES; FORMATION, POWERS.]
10 (a) An agricultural society or association may be
11 incorporated by citizens of any county, or two or more counties
12 jointly, but only one agricultural society shall be organized in
13 any county. An agricultural society may sue and be sued in its
14 corporate name; may adopt bylaws, rules, and regulations, alter
15 and amend the same; may purchase and hold, lease and control any
16 real or personal property deemed to promote the objects of the
17 society, and may rent, lease, sell, and convey the same. Any
18 income from the rental or lease of ~~such~~ the property may be used
19 for any or all of the following purposes: (1) Acquisition of
20 additional real property; (2) Construction of additional
21 buildings; or (3) Maintenance and care of the society's
22 property. This section shall not be construed to preclude the
23 continuance of any agricultural society now existing or the
24 granting of aid ~~thereto~~ to the society.
25 (b) An agricultural society shall have jurisdiction and

1 control of the grounds upon which its fairs are held and of the
2 streets and grounds adjacent thereto grounds during such the
3 fair, so far as may be necessary for such-purpose fair purposes,
4 and are exempt from local zoning ordinances throughout the year
5 as provided in section 38.16. At or before the time of holding
6 any fair, the agricultural society may appoint, in writing, as
7 many persons to act as special constables as necessary, for and
8 during the time of holding the same and for a reasonable time
9 prior and subsequent thereto to the fair. These constables,
10 before entering upon their duties, shall take and subscribe the
11 usual oath of office, endorsed upon their appointment, and have
12 and exercise upon the grounds of the society, and within
13 one-half mile thereof of the grounds, all the power and
14 authority of constables at common law and, in addition thereto,
15 may, within these limits, without warrant, arrest any person
16 found violating any laws of the state, or any rule, regulation,
17 or bylaw of the society, and summarily remove the persons and
18 property of such the offenders from the grounds and take them
19 before any court of competent jurisdiction to be dealt with
20 according to law. Each such appointed peace officer shall wear
21 an appropriate badge of office while acting as such one.

22 (c) As an alternative to the appointment of special
23 constables, the society may contract with the sheriff or local
24 municipality to provide the society with the same police service
25 it may secure by appointing special constables. A person
26 providing police service pursuant to such a contract is not, by
27 reason of the contract, classified as an employee of the
28 agricultural society for any purpose other than the discharge of
29 powers and duties under the contract.

30 (d) Any person who shall willfully violate any rule or
31 regulation made by such agricultural societies during the days
32 of a fair shall be guilty of a misdemeanor.

33 The provisions of this section supersede all special laws
34 on the same subject.

35 Sec. 2. Minnesota Statutes 2004, section 38.16, is amended
36 to read:

1 38.16 [EXEMPTION FROM ZONING ORDINANCES.]

2 When lands lying within the corporate limits of towns or
3 cities are owned by a county or agricultural society and used
4 for agricultural fair purposes, the lands and the buildings now
5 or hereafter erected are exempt from the zoning, building, and
6 other ordinances of the town or city, ~~provided that~~. No
7 license or permit need be obtained from, nor fee paid to, the
8 town or city in connection with the use of the lands. For the
9 purposes of this section, "agricultural fair purposes" includes
10 the management of property as provided in section 38.01,
11 paragraph (a).

1 Senator Higgins from the Committee on State and Local
2 Government Operations, to which was referred

3 S.F. No. 1146: A bill for an act relating to agriculture;
4 clarifying the county agricultural society exemption from local
5 zoning ordinances; amending Minnesota Statutes 2004, sections
6 38.01; 38.16.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9

10

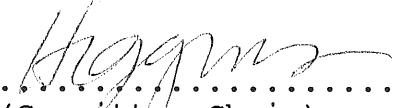
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.....
(Committee Chair)

March 14, 2005.....
(Date of Committee recommendation)

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S.F. No. 1208 - Department of Employee Relations

Author: Senator Claire A. Robling

Prepared by: Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

Date: March 14, 2005

This is an agency bill prepared by the Department of Employee Relations that makes several miscellaneous changes in law that affect the work done by the department.

Section 1 [ADDITIONAL UNCLASSIFIED POSITIONS.] changes executive branch authority to designate additional unclassified positions in the state's civil service in two different ways:

- Adds Explore Minnesota Tourism and the Iron Range Resources and Rehabilitation Board to the list of agencies that may designate additional unclassified positions under existing law.
- Allows a position to be designated as unclassified if the employee reports to an assistant agency head and would be considered part of the agency head's management team, in addition to other requirements in existing law. Current law requires additional unclassified employees to report to agency heads or deputy agency heads.

Section 2 [LIMITED CONSIDERATION OF APPLICANTS.] current law specifies how the Commissioner of Employee Relations may limit consideration of applicants for various positions in state employment. Among other options, the commissioner may limit consideration to former employees who have left employment within the past four years in good standing and have indicated a desire for reemployment. This section strikes the requirement that they must have separated from the class in "good standing." The "good standing" requirement was created in legislative changes made to the section last year and created a standard that did not previously exist. The removal of this term returns the reinstatement process to its original form.

Section 3 [TEMPORARY APPOINTMENTS.] this section makes changes that conform this section with the changes made to the state employment process in the 2004 Session. A new reference is added to the employment data base that is currently in use and an obsolete reference to the eligible list is stricken.

Section 4 [ELECTIVE ELIGIBILITY.] strikes the Minnesota Humanities Commission from the list of groups eligible to participate in the State Employee Group Insurance Plan.

Section 5 [DISSEMINATION OF INFORMATION.] authorizes the Commissioner of Employee Relations to electronically transmit information for open enrollment elections to all active employees. This section requires the commissioner to provide notice that the information will be electronically transmitted.

TSB:rer

Senators Robling and Wergin introduced--

S.F. No. 1208: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to employee relations; modifying state
3 employment provisions; amending Minnesota Statutes
4 2004, sections 43A.08, subdivision 1a; 43A.10,
5 subdivision 6a; 43A.15, subdivision 3; 43A.27,
6 subdivision 2; 43A.31, by adding a subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 43A.08,
9 subdivision 1a, is amended to read:

10 Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing
11 authorities for the following agencies may designate additional
12 unclassified positions according to this subdivision: the
13 Departments of Administration; Agriculture; Commerce;
14 Corrections; Education; Employee Relations; Employment and
15 Economic Development; Finance; Health; Human Rights; Labor and
16 Industry; Natural Resources; Public Safety; Human Services;
17 Revenue; Transportation; and Veterans Affairs; the Housing
18 Finance and Pollution Control Agencies; the State Lottery; the
19 state Board of Investment; the Office of Administrative
20 Hearings; the Office of Environmental Assistance; the Offices of
21 the Attorney General, Secretary of State, and State Auditor; the
22 Minnesota State Colleges and Universities; the Higher Education
23 Services Office; the Perpich Center for Arts Education; and the
24 Minnesota Zoological Board; Explore Minnesota Tourism; and the
25 Iron Range Resources and Rehabilitation Board.

26 A position designated by an appointing authority according

1 to this subdivision must meet the following standards and
2 criteria:

3 (1) the designation of the position would not be contrary
4 to other law relating specifically to that agency;

5 (2) the person occupying the position would report directly
6 to the agency head ~~or~~, deputy agency head, or assistant agency
7 head and would be designated as part of the agency head's
8 management team;

9 (3) the duties of the position would involve significant
10 discretion and substantial involvement in the development,
11 interpretation, and implementation of agency policy;

12 (4) the duties of the position would not require primarily
13 personnel, accounting, or other technical expertise where
14 continuity in the position would be important;

15 (5) there would be a need for the person occupying the
16 position to be accountable to, loyal to, and compatible with,
17 the governor and the agency head, the employing statutory board
18 or commission, or the employing constitutional officer;

19 (6) the position would be at the level of division or
20 bureau director or assistant to the agency head; and

21 (7) the commissioner has approved the designation as being
22 consistent with the standards and criteria in this subdivision.

23 Sec. 2. Minnesota Statutes 2004, section 43A.10,
24 subdivision 6a, is amended to read:

25 Subd. 6a. [LIMITED CONSIDERATION OF APPLICANTS.] The
26 commissioner may limit consideration to only those applicants
27 who have indicated availability for the geographic location,
28 employment condition, travel status, and job grouping of the
29 vacant position and who have indicated possession of the minimum
30 qualifications for the vacant position. In addition, the
31 commissioner may limit consideration to only those applicants
32 who are:

33 (1) employees on a layoff list for the job class of the
34 position. The appointing authority shall consider those names
35 as provided in collective bargaining agreements and plans
36 established under section 43A.18;

1 (2) current employees of the civil service, the Minnesota
2 State Retirement System, the Public Employees Retirement
3 Association, and the Teacher's Retirement Association, or
4 employees of one or more agencies or organizational units under
5 them;

6 (3) former permanent and probationary employees of the job
7 class who separated from the class in-good-standing within the
8 past four years and have indicated availability for
9 reinstatement to the class; or

10 (4) current permanent and probationary employees who have
11 indicated availability for transfer or demotion to the job class.

12 Sec. 3. Minnesota Statutes 2004, section 43A.15,
13 subdivision 3, is amended to read:

14 Subd. 3. [TEMPORARY APPOINTMENTS.] The commissioner may
15 authorize an appointing authority to make a temporary
16 appointment of up to six months. The commissioner may, in the
17 best interest of the state, grant an extension of a temporary
18 appointment or approve a temporary appointment to fill a vacancy
19 created by an approved leave of absence to a maximum period of
20 one year. When practicable, the appointing authority may search
21 the employment database for qualified applicants or, when
22 necessary, the commissioner may ~~certify-any-qualified-eligible~~
23 ~~from-an-eligible-list-for-the-temporary-appointment,-but-may~~
24 authorize the appointment of any person deemed qualified by the
25 appointing authority.

26 No person shall be employed on a temporary basis in any one
27 agency for more than 12 months in any 24-month period.

28 Sec. 4. Minnesota Statutes 2004, section 43A.27,
29 subdivision 2, is amended to read:

30 Subd. 2. [ELECTIVE ELIGIBILITY.] The following persons, if
31 not otherwise covered by section 43A.24, may elect coverage for
32 themselves or their dependents at their own expense:

33 (a) a state employee, including persons on layoff from a
34 civil service position as provided in collective bargaining
35 agreements or a plan established pursuant to section 43A.18;

36 (b) an employee of the Board of Regents of the University

1 of Minnesota, including persons on layoff, as provided in
2 collective bargaining agreements or by the Board of Regents;

3 (c) an officer or employee of the State Agricultural
4 Society, State Horticultural Society, Sibley House Association,
5 ~~Minnesota-Humanities-Commission~~, Minnesota Area Industry Labor
6 Management Councils, Minnesota International Center, Minnesota
7 Academy of Science, Science Museum of Minnesota, Minnesota
8 Safety Council, state Office of Disabled American Veterans,
9 state Office of the American Legion and its auxiliary, state
10 Office of Veterans of Foreign Wars and its auxiliary, or state
11 Office of the Military Order of the Purple Heart;

12 (d) a civilian employee of the adjutant general who is paid
13 from federal funds and who is not eligible for benefits from any
14 federal civilian employee group life insurance or health
15 benefits program; and

16 (e) an officer or employee of the State Capitol Credit
17 Union or the Highway Credit Union.

18 Sec. 5. Minnesota Statutes 2004, section 43A.31, is
19 amended by adding a subdivision to read:

20 Subd. 6. [DISSEMINATION OF INFORMATION.] The commissioner
21 may electronically transmit to active employees all information
22 necessary to administer sections 43A.22 to 43A.30, including,
23 but not limited to, information necessary for open enrollment
24 elections. The commissioner must provide notification that the
25 information will be electronically transmitted.