

S.F. No. 2782 – Omnibus Labor Budget Bill (A-5 amendment)

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Article 1 – Appropriations

Provides appropriations for the Department of Labor and Industry, Workers’ Compensation Court of Appeals, and the Bureau of Mediation Services. See spreadsheet for details.

Article 2 – Agriculture and Food Processing Workers

Article 2 is from **S.F. 61** (Kunesh) and amends three areas of worker protection laws: the Packinghouse Workers Bill of Rights, migrant labor laws, and recruitment in food processing employment protections.

Section 1. **Definition.** Includes poultry processing in the definition of “employer” for purposes of the Packinghouse Workers Bill of Rights statute in Chapter 179.

Section 2. **Information provided to employee by employer.** Specifies that information regarding the employer’s workers’ compensation carrier and the right to workers’ compensation coverage be provided by an employer at the start of employment in addition to existing information required on employee’s rights and duties as an employee.

Section 3. **Civil action.** Adds a new subdivision allowing an employee to bring a cause of action for an injury caused by a violation of the Packinghouse Workers Bill of Rights statute. Specifies damage amounts, and includes costs and reasonable attorney fees.

Section 4. **Fine.** Adds a new subdivision specifying that the commissioner of labor and industry fine an employer not less than \$400 or more than \$1,000 for each violation of the information notice requirements. Specifies that the fine be paid to the employee aggrieved by the violation.

Section 5. **Prompt payment required.** Requires wages or commissions for migrant workers to be paid within three days, instead of within five days as required under current law, when the worker quits or resigns.

Section 6. **Definitions.** Amends the definition of “recruit” to clarify that recruit also includes inducing an individual to relocate within Minnesota in addition to only mean relocating to the state to work in food processing.

Section 7. **Recruiting; required disclosure.** Clarifies that the disclosure required by this subdivision is in addition to the notice requirements under § 181.032.

Section 8. **Civil action.** Increases the award amounts allowed for damages in a civil action brought under the section.

Section 9. **Fine.** Increases fine amounts for violations of the food processing employment recruitment statutory requirements. Specifies that the fine be paid to the employee aggrieved by the violation.

Section 10. **Standard disclosure form.** Specifies that any recruiting disclosure form provided by the department be provided in additional languages upon request in addition to being provided in English and Spanish.

Section 11. **Agricultural labor.** Amends the definition of “agricultural labor.”

Section 12. **Employer.** Amends the definition of “employer.”

Section 13. **Terms.** Requires the statement that must be provided to migrant workers at the time of recruitment be provided in another language if needed and include information about workers’ compensation insurance coverage.

Section 14. **Biweekly pay.** Clarifies that payment may be required sooner than within three days of termination if a worker is discharged.

Section 15. **Guaranteed hours.** Clarifies that the bi-weekly 70-hour pay guarantee would be computed by using the highest of the federal, state, or local minimum wage, or any hourly wage rate indicated in the written employment statement. Increases the amount to be paid to migrant workers per day when work is not available under certain conditions.

Section 16. **Statement itemizing deductions from wages.** Requires the written statement for deductions from wages by an employer to comply with the notice requirements under § 181.032.

Section 17. **Record keeping.** Clarifies record keeping requirements for migrant workers recruited by an employer.

Section 18. **Judgment; damages.** Increases penalty amounts for violations of migrant worker protection laws.

Section 19. **Enforcement.** Allows the commissioner of labor and industry to assess penalties and provide the penalty to the migrant worker noncompliance.

ARTICLE 3 – Nursing Home Workforce Standards

Article 3 is the contents of **S.F. 1621** (Pappas), which establishes the Minnesota Nursing Home Workforce Standards Board.

Section 1. **Title.** Provides that sections 181.211 to 181.217 may be cited as the Minnesota Nursing Home Workforce Standards Board Act.

Section 2. **Employer liability.** Authorizes the commissioner of labor and industry to impose liability on employers for violations of any rule establishing nursing home employment standards under section 181.213 or notice requirements under section 181.215. Under existing law, the commissioner must order an employer to pay back pay, gratuities, compensatory damages, and liquidated damages to an aggrieved employee, and may impose a civil penalty of up to \$1,000 for each willful or repeat violation.

Section 3. **Definitions.** Defines terms for sections governing the Nursing Home Workforce Standards Board. Terms defined are board, certified worker organization, commissioner, employer organization, nursing home, nursing home employer, nursing home worker, and worker organization.

Section 4. **Minnesota Nursing Home Workforce Standards Board; establishment.** Establishes the board, specifies voting members of the board, and provides for terms, vacancies, election of a chairperson, staffing, compensation, application of other laws, voting, hearings and investigations, and department support.

Section 5. **Duties of the board; minimum nursing home employment standards.** Requires the board to adopt rules that establish minimum nursing home employment standards based on the board's investigations of market conditions and existing wages, benefits, and working conditions for nursing home workers. Requires initial standards to be adopted by August 1, 2024, and allows the board to use the expedited rulemaking process to adopt initial rules. Requires the board to review previously adopted minimum nursing home employment standards every two years and update the standards or recommend updates to them using the expedited rulemaking process.

Section 6. **Duties of the board; training for nursing home workers.** Requires the board to certify worker organizations to provide training to nursing home workers, establish curriculum requirements, and annually review the adequacy of curriculum requirements and revise them as appropriate. Also lists duties of certified worker organizations and nursing home employers, and requires nursing home workers to be compensated for training at their regular hourly rate, plus travel expenses for any offsite training.

Section 7. **Required notices.** Requires nursing home employers to provide notices informing nursing home workers of their rights and obligations regarding applicable minimum nursing home employment standards and local minimum standards. Specifies minimum requirements for providing notice including specifying minimum content and posting requirements for notices required in this section, and to make available a template or sample notice.

Section 8. **Retaliation prohibited.** Prohibits retaliation, including discharge or demotion, against a nursing home worker for exercising any right under the Minnesota Nursing Home Workforce Standards Board Act, for participating in any hearing, investigation, proceeding, or training as provided under the Act or for informing another employer that a nursing home worker has engaged

in protected activities under the Act. Requires reinstatement with the same conditions of employment for a nursing home worker who experiences retaliation.

Section 9. **Enforcement.** Provides for enforcement of the Minnesota Nursing Home Workforce Standards Board Act by the commissioner of labor and industry. Authorizes the commissioner of labor and industry to investigate suspected violations of the Minnesota Nursing Home Workforce Standards Board Act. Allows a nursing home worker or class of nursing home workers aggrieved by a violation of the minimum employment standards under the Act to bring a civil cause of action in district court.

Section 10. **Initial appointments.** Requires the governor to make initial appointments to the Board no later than August 1, 2023.

ARTICLE 4 – Combative Sports

Section 1. **Combatant.** Modifies the term “combatant”

Section 2. **Combative sport.** Modifies the term “combative sport” to include “professional or amateur kickboxing”

Section 3. **Combative sports contest.** Modifies the term “combative sports contest” to include “professional or amateur kickboxing”

Section 4. **Martial art.** Modifies the term “martial art”

Section 5. **Kickboxing.** Adds a definition of “kickboxing”

Section 6. **Tough person contest.** Modifies the definition of “tough person contest”

Section 7. **Advisory council.** Reduces the advisory council from nine members to five and exempts advisory council meetings on issues related to contest outcome challenges from the open meeting requirements of chapter 13D.

Section 8. **Rules.** Incorporates the most recent version of the Unified Rules of Boxing by reference as part of the chapter.

Section 9. **Commissioner duties.** Modifies commissioner duties by including development procedures for regulating kickboxing and to approve regulatory bodies to oversee contest.

Section 10. **Regulatory authority; tough person contests.** Clarifies that all tough person contests are subject to the most recent version of the Unified Rules of Boxing and requires wearing of headgear in all tough person contests.

Section 11. **Regulatory authority; mixed martial arts contests.** Exempts certain amateur martial arts and similar sporting events from regulation by Ch. 341.

Section 12. **Regulatory authority; kickboxing contests.** Provides regulatory authority over kickboxing contests.

Section 13. **Regulator authority; martial arts and amateur boxing.** Exempts martial arts and amateur boxing from regulation under Ch. 341.

Section 14. **Regulatory authority; certain students.** Exempts contests regulated by the Minnesota State High School League and other collegiate associations from regulation by Ch. 341.

Section 15. **Prelicensure requirements.** Modifies prelicensure requirements for promoters, combatants, and other licensees.

Section 16. **Expiration and application.** Changes expiration of licenses to be one year after the date of issuance instead of annually on December 31.

Section 17. **Fee schedule.** Modifies timing of contest fee payment dependent upon gross ticket sales and the value of complementary tickets.

Section 18. **Payment schedule.** Allows the commissioner to establish a payment schedule for promoters to pay referees, judges, timekeepers, and ringside physicians.

Section 19. **Event approval.** Establishes procedures for event approval.

Section 20. **Ambulance.** Requires a promoter to have an ambulance and two emergency medical technicians at all combative sports contests.

Section 21. **Physical examination required; fees.** Deletes language regarding the commissioner setting a schedule of fees for attending physicians at a combative sports contest.

Section 22. **Prohibited performance enhancing substances and testing.** Prohibits combatants from using performance enhancing substances and allows the commissioner to administer drug testing.

Section 23. **Challenging the outcome of a combative sport contest.** Sets rules for challenging the outcome of a combative sport contest.

Section 24. **Civil penalties.** Allows the commissioner to impose civil penalties if a regulatory body for a martial arts or amateur boxing event does not submit bout results and any suspensions to the commissioner within 72 hours after the event.

ARTICLE 5 – Miscellaneous Policy

Section 1. **Prevailing wage required.** Clarifies that a recipient of economic development financial assistance is subject to prevailing wage requirements and enforcement provisions. This is from **S.F. 1566** (Oumou Verbeten).

Sections 2 to 4, 6 to 8, 10, and 11. **Department of Labor and Industry organization.** The section reflects technical changes to reflect the creation of a separate division of apprenticeship (separate from the division of labor standards) within the Department of Labor and Industry. These sections are from the underlying bill, **S.F.2782**.

Section 5. **Compliance orders.** Allows the commissioner to issue compliance orders for additional statutory (Agriculture and food processing workers, nursing home workers) references.

Section 9. **Labor education advancement grant program (LEAP).** Updates terminology used in the LEAP grant statute and including Tribal governments in participation in the program. This section is from the underlying bill, **S.F.2782**.

Sections 12 to 17. **OSHA violations.** These sections increase penalties for OSHA violations and also allows for the commissioner to make adjustments to these penalty amounts for inflation. These sections are from the underlying bill, **S.F.2782**.

Section 18. **Ergonomics.** Requires licensed health care facilities, warehouse distribution centers, and meatpacking sites to create and implement a written ergonomics program.

Section 19. **Fees nonrefundable.** Clarifies exceptions for refunding of fees including when a license is not issued. This section is from the underlying bill, **S.F.2782**.

Section 20. **Reinstatement of licenses.** Reduces fees for reinstatement of licenses issued under Ch. 326B. This section is from the underlying bill, **S.F.2782**.

Sections 21 to 24. **Electric vehicle parking spaces.** Add definitions related to electric vehicle parking spaces for purposes of the State Building Code and rulemaking. These sections are from the underlying bill, **S.F.2782**.

Section 25. **State licensed facility.** Modifies the definition of “state licensed facility” to include assisted living facilities for purposes of the State Building Code. This section is from the underlying bill, **S.F.2782**.

Section 26. **Adoption of code.** Directs the commissioner of labor and industry to act on the new model commercial energy code by adopting each new published edition of ASHRAE 90.1 or a more efficient standard. This is from **S.F. 1368** (Port).

Section 27. **Special requirements.** Directs the commissioner to adopt rules requiring (1) window cleaning safety features that comply with a nationally recognized standard; and (2) adult-size changing facilities as part of the State Building Code. The adult-size changing facilities requirement is from **S.F. 999** (Boldon).

Section 28. **Electric vehicle charging.** Requires the State Building Code to require a minimum number of electric vehicle ready spaces, electric vehicle capable spaces, and electric vehicle charging stations either within or adjacent to new commercial and multifamily structures that provide on-site parking facilities. This section is from the underlying bill, **S.F.2782**.

Section 29. **Special skill.** Modifies the definition of “special skill” which would have the effect of requiring certain work involving more than one special skill related to solar photovoltaic systems to require a license as a residential contractor. This is from **S.F. 2735** (McEwen).

Section 30. **Rulemaking authority.** Allows the commissioner to use expedited rulemaking related to adult-size changing facilities. This section is from **S.F. 999** (Boldon).

Section 31. **Repealer.** Repeals obsolete reference to transfer of employees from Division of Women and Children. This section is from the underlying bill, **S.F.2782**.

ARTICLE 6 – Safe Workplaces for Meat and Poultry Processing Workers

Article 6 is the contents of **S.F. 207** (Putnam).

Section 1. **Title.** Specifies a title to reference new sections 179.87 to 179.8757 as the Safe Workplaces for Meat and Poultry Processing Workers Act.

Section 2. **Definitions.** Provides definitions of terms used in the act.

Section 3. **Worker rights coordinator.** Requires the commissioner to appoint a meatpacking industry worker rights coordinator.

Section 4. **Refusal to work under dangerous conditions.** Provides a meat-processing worker the right to refuse to work under dangerous conditions.

Section 5. **Enforcement and compliance.** Provides enforcement and compliance authority of meatpacking operations to the commissioner of labor and industry.

Section 6. **Retaliation against employees and whistleblowers prohibited.** Prohibits a meat-processing employer to discharge or discriminate against a worker because the employee has raised a concern about a meatpacking operation's health and safety practices.

Section 7. **Meatpacking worker chronic injuries and workplace safety.** Requires meat-processing employers to adopt a safe worker program to minimize and prevent musculoskeletal disorders.

Section 8. **Notification required.** Requires meat-processing employers to provide to workers information and notifications about employee rights at least annually.

Section 9. **Refusal to work under dangerous conditions.** Allows an administrative law judge to order employee reinstatement and other relief to an employee who has refused to in good faith to work under dangerous conditions.

ARTICLE 7 – Regulation of Restrictive Employment Agreements

Section 1. **Sexual harassment or abuse settlement; payment as severance or wages prohibited.** Prohibits financial settlements in sexual harassment or abuse cases between employers and employees from paying the settlement as wages or severance pay regardless of whether the settlement also includes a nondisclosure agreement. This section is from **S.F. 1258** (Seeberger).

Section 2. **Covenants not to compete void in employment agreements; substantive protections of Minnesota Law Apply.** Makes covenants not to compete in employment agreements void and unenforceable unless the exception for sale or dissolution of a business applies. This section is from **S.F. 405** (Mann).

Section 3. **Damages for sexual harassment or abuse.** Provides an individual subtraction from taxable income for (1) damages received under a sexual harassment or abuse claim for injuries that are not physical injuries or sicknesses, or (2) severance pay received under a financial settlement that does not include a nondisclosure agreement. This section is from **S.F. 1258** (Seeberger).

ARTICLE 8 – Building and Construction Contracts

Article 8 is the contents of **S.F. 754** (McEwen).

Section 1. **Indemnification agreement.** Mirrors the existing definition of “indemnification agreement” from Chapter 337 in Chapter 15 to clarify applicability to public contracts.

Section 2. **Promisee.** Mirrors the existing definition of “promisee” from Chapter 337 in Chapter 15 to clarify applicability to public contracts.

Section 3. **Unenforceability of certain agreements.** Specifies that an indemnification agreement in a contract for a public improvement or a provision in a contract for a public building or construction contract that requires one party in a contract to provide insurance for another party for negligent or intentional actions is void and unenforceable.

Section 4. **Indemnification agreement.** Adds the word “defend” to the definition of “indemnification agreement” to clarify responsibility for payment of legal fees.

Section 5. **Agreements valid.** Modifies project-specific insurance to limit those to claims to include only those negligent acts or omissions of the promisor’s negligent acts or omissions or those of their independent contractors, agents, employees, or delegates. Reorganizes other provisions for clarity within the statute.