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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3428

02/12/2024 Authored by Jordan and Nelson, M., The bill was referred to the Committee on Labor and Industry Finance and Policy

1.1 A bill for an act
1.2 relating to labor; making technical changes to certain Bureau of Mediation Services
1.3 provisions; amending Minnesota Statutes 2022, sections 179.01, subdivisions 1,
1.4 9, 16; 179.06; 179.08; 179.11; 179.12; 179.254, subdivision 1; 179.256; 179.26;
1.5 179.27; 179.35, subdivision 1; 179.40; 179.43; 179A.02; 179A.03, subdivision
1.6 17; 179A.06, subdivisions 1, 2, 3; 179A.08, subdivision 2; 179A.10, subdivision
1.7 1; 179A.104, subdivision 1; 179A.12, subdivision 1; 179A.15; 179A.16,
1.8 subdivisions 1, 7; 179A.18, subdivisions 2, 3; 179A.19, subdivision 6; 179A.20,
1.9 subdivision 4; 179A.23; 626.892, subdivision 12; repealing Minnesota Rules, part
1.10 5510.0310, subpart 13.

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

1.12 Section 1. Minnesota Statutes 2022, section 179.01, subdivision 1, is amended to read:

1.13 Subdivision 1. ~~Words, terms, and phrases~~ Scope. Unless the language or context
1.14 clearly indicates that a different meaning is intended, the ~~following words, terms, and~~
1.15 ~~phrases, for the purposes of sections 179.01 to 179.17, shall be given the meanings subjoined~~
1.16 ~~to them~~ defined in this section have the meanings given them for purposes of sections 179.01
1.17 to 179.17.

1.18 Sec. 2. Minnesota Statutes 2022, section 179.01, subdivision 9, is amended to read:

1.19 Subd. 9. **Lockout.** "Lockout" ~~is~~ means the refusal of the employer to furnish work to
1.20 employees as a result of a labor dispute.

1.21 Sec. 3. Minnesota Statutes 2022, section 179.01, subdivision 16, is amended to read:

1.22 Subd. 16. **Professional strikebreaker.** (a) "Professional strikebreaker" means any person
1.23 who:

2.1 ~~(a)~~ (1) makes an offer to an employer at whose place of business a labor dispute is
 2.2 presently in progress to work as a replacement for an employee or employees involved in
 2.3 such labor dispute; and

2.4 ~~(b)~~ (2) during a period of five years immediately preceding such offer, has, on more
 2.5 than one occasion, made an offer to employers to work as a temporary employee to personally
 2.6 replace employees involved in labor disputes.

2.7 (b) For the purposes of this subdivision;

2.8 (1) "work" ~~shall mean~~ means the rendering of services for wages or other consideration;
 2.9 ~~For the purposes of this subdivision;~~ and

2.10 (2) "offer" ~~shall include~~ includes arrangements made for or on behalf of employers by
 2.11 any person.

2.12 Sec. 4. Minnesota Statutes 2022, section 179.06, is amended to read:

2.13 **179.06 COLLECTIVE BARGAINING AGREEMENTS.**

2.14 Subdivision 1. **Notices.** (a) When any employee, employees, or representative of
 2.15 employees, or labor organization shall desire to negotiate a collective bargaining agreement,
 2.16 or make any change in any existing agreement, or shall desire any changes in the rates of
 2.17 pay, rules or working conditions in any place of employment, it shall give written notice to
 2.18 the employer of its demand, which notice shall follow the employer if the place of
 2.19 employment is changed, and it shall thereupon be the duty of the employer and the
 2.20 representative of employee or labor organization to endeavor in good faith to reach an
 2.21 agreement respecting such demand. An employer shall give a like notice to employees,
 2.22 representative, or labor organizations of any intended change in any existing agreement. If
 2.23 no agreement is reached at the expiration of ten days after service of such notice, any
 2.24 employees, representative, labor organization, or employer may at any time thereafter
 2.25 petition the commissioner of mediation services to take jurisdiction of the dispute and it
 2.26 shall be unlawful for any labor organization or representative to institute or aid in the conduct
 2.27 of a strike or for an employer to institute a lockout, unless such petition has been served by
 2.28 the party taking such action upon the commissioner and the other parties to the labor dispute
 2.29 at least ten days before the strike or lockout becomes effective. Unless the strike or lockout
 2.30 is commenced within 90 days from the date of service of the petition upon the commissioner,
 2.31 it shall be unlawful for any of the parties to institute or aid in the conduct of a strike or
 2.32 lockout without serving a new petition in the manner prescribed for the service of the original

3.1 petition, provided that the 90-day period may be extended by written agreement of the
 3.2 parties filed with the commissioner.

3.3 (b) A petition by the employer shall be signed by the employer or a duly authorized
 3.4 officer or agent; and a petition by the employees shall be signed by their representative or
 3.5 its officers, or by the committee selected to negotiate with the employer. In either case the
 3.6 petition shall be served by delivering it to the commissioner in person or by sending it by
 3.7 certified mail addressed to the commissioner at the commissioner's office. The petition shall
 3.8 state briefly the nature of the dispute and the demands of the party who serves it. Upon
 3.9 receipt of a petition, the commissioner shall fix a time and place for a conference with the
 3.10 parties to the labor dispute upon the issues involved in the dispute, and shall then take
 3.11 whatever steps the commissioner deems most expedient to bring about a settlement of the
 3.12 dispute, including assisting in negotiating and drafting a settlement agreement. It shall be
 3.13 the duty of all parties to a labor dispute to respond to the summons of the commissioner for
 3.14 joint or several conferences with the commissioner and to continue in such conference until
 3.15 excused by the commissioner, not beyond the ten-day period heretofore prescribed except
 3.16 by mutual consent of the parties.

3.17 **Subd. 2. Commissioner, powers and duties.** The commissioner may at the request of
 3.18 either party to a labor dispute render assistance in settling the dispute without the necessity
 3.19 of filing the formal petition ~~referred to in~~ under subdivision 1. If the commissioner takes
 3.20 jurisdiction of the dispute as a result of such a request, the commissioner ~~shall~~ must then
 3.21 proceed ~~as provided in~~ according to subdivision 1.

3.22 Sec. 5. Minnesota Statutes 2022, section 179.08, is amended to read:

3.23 **179.08 POWERS OF COMMISSION APPOINTED BY COMMISSIONER.**

3.24 (a) The commission appointed by the commissioner pursuant to the provisions of section
 3.25 179.07 shall have the power to issue subpoenas requiring the attendance and testimony of
 3.26 witnesses and the production of evidence which relates to any matter involved in any such
 3.27 hearing, and may by its chair administer oaths and affirmations, and may examine witnesses.
 3.28 Such attendance of witnesses and the production of such evidence may be required from
 3.29 any place in the state at any designated place of hearing, but whenever practical hearings
 3.30 shall be held in a county where the labor dispute has arisen or exists.

3.31 (b) In case of contumacy or refusal to obey a subpoena issued under paragraph (a), the
 3.32 district court of the state for the county where the proceeding is pending or in which the
 3.33 person guilty of such contumacy or refusal to obey is found, or resides, or transacts business,
 3.34 or application by the commission shall have jurisdiction to issue to such person an order

4.1 requiring such person to appear before the commission, there to produce evidence as so
 4.2 ordered, or there to give testimony touching the matter under investigation or in question,
 4.3 and any failure to obey such order of the court may be punished by the court as a contempt
 4.4 thereof.

4.5 (c) Any party to or party affected by the dispute may appear before the commission in
 4.6 person or by attorney or by their representative, and shall have the right to offer competent
 4.7 evidence and to be heard on the issues before the report of the commission is made.

4.8 ~~(d) Any commissioners so appointed shall~~ commission members appointed under section
 4.9 179.07 must be paid a per diem allowance not to exceed that established for arbitrators in
 4.10 section 179A.16, subdivision 8, and their necessary expenses while serving.

4.11 Sec. 6. Minnesota Statutes 2022, section 179.11, is amended to read:

4.12 **179.11 EMPLOYEE UNFAIR LABOR PRACTICES.**

4.13 (a) It shall be is an unfair labor practice:

4.14 (1) for any employee or labor organization to institute a strike if such strike is a violation
 4.15 of any valid collective agreement between any employer and its employees or labor
 4.16 organization and the employer is, at the time, in good faith complying with the provisions
 4.17 of the agreement, or to violate the terms and conditions of such bargaining agreement;

4.18 (2) for any employee or labor organization to institute a strike if the calling of such strike
 4.19 is in violation of sections 179.06 or 179.07;

4.20 (3) for any person to seize or occupy property unlawfully during the existence of a labor
 4.21 dispute;

4.22 (4) for any person to picket or cause to be picketed a place of employment of which
 4.23 place the person is not an employee while a strike is in progress affecting the place of
 4.24 employment, unless the majority of persons engaged in picketing the place of employment
 4.25 at these times are employees of the place of employment;

4.26 (5) for more than one person to picket or cause to be picketed a single entrance to any
 4.27 place of employment where no strike is in progress at the time;

4.28 (6) for any person to interfere in any manner with the operation of a vehicle or the
 4.29 operator thereof when neither the owner nor operator of the vehicle is at the time a party to
 4.30 a strike;

4.31 (7) for any employee, labor organization, or officer, agent, or member thereof, to compel
 4.32 or attempt to compel any person to join or to refrain from joining any labor organization or

5.1 any strike against the person's will by any threatened or actual unlawful interference with
 5.2 the person, or immediate family member, or physical property, or to assault or unlawfully
 5.3 threaten any such person while in pursuit of lawful employment;

5.4 (8) unless the strike has been approved by a majority vote of the voting employees in a
 5.5 collective bargaining unit of the employees of an employer or association of employers
 5.6 against whom such strike is primarily directed, for any person or labor organization to
 5.7 cooperate in engaging in, promoting, or inducing a strike. Such vote shall be taken by secret
 5.8 ballot at an election called by the collective bargaining agent for the unit, and reasonable
 5.9 notice shall be given to all employees in the collective bargaining unit of the time and place
 5.10 of election; or

5.11 (9) for any person or labor organization to hinder or prevent by intimidation, force,
 5.12 coercion or sabotage, or by threats thereof, the production, transportation, processing or
 5.13 marketing by a producer, processor or marketing organization, of agricultural products, or
 5.14 to combine or conspire to cause or threaten to cause injury to any processor, producer or
 5.15 marketing organization, whether by withholding labor or other beneficial intercourse,
 5.16 refusing to handle, use or work on particular agricultural products, or by other unlawful
 5.17 means, in order to bring such processor or marketing organization against its will into a
 5.18 concerted plan to coerce or inflict damage upon any producer; provided that nothing in this
 5.19 subsection shall prevent a strike which is called by the employees of such producer, processor
 5.20 or marketing organization for the bona fide purpose of improving their own working
 5.21 conditions or promoting or protecting their own rights of organization, selection of bargaining
 5.22 representative or collective bargaining.

5.23 ~~The violation of clauses (2), (3), (4), (5), (6), (7), (8) and (9) are hereby declared to be~~
 5.24 ~~unlawful acts.~~

5.25 (b) It is an unlawful act to violate paragraph (a), clause (2), (3), (4), (5), (6), (7), (8), or
 5.26 (9).

5.27 Sec. 7. Minnesota Statutes 2022, section 179.12, is amended to read:

5.28 **179.12 EMPLOYERS' EMPLOYER UNFAIR LABOR PRACTICES.**

5.29 (a) It is an unfair labor practice for an employer:

5.30 (1) to institute a lockout of its employees in violation of a valid collective bargaining
 5.31 agreement between the employer and its employees or labor organization if the employees
 5.32 at the time are in good faith complying with the provisions of the agreement, or to violate
 5.33 the terms and conditions of the bargaining agreement;

6.1 (2) to institute a lockout of its employees in violation of section 179.06 or 179.07;

6.2 (3) to encourage or discourage membership in a labor organization by discrimination in
6.3 regard to hire or tenure of employment or any terms or conditions of employment; provided,
6.4 that this clause does not apply to the provisions of collective bargaining agreements entered
6.5 into voluntarily by an employer and its employees or a labor organization representing the
6.6 employees as a bargaining agent, as provided by section 179.16;

6.7 (4) to discharge or otherwise to discriminate against an employee because the employee
6.8 has signed or filed an affidavit, petition, or complaint or given information or testimony
6.9 under this chapter;

6.10 (5) to spy directly or through agents or any other persons upon activities of employees
6.11 or their representatives in the exercise of their legal rights;

6.12 (6) to distribute or circulate a blacklist of individuals exercising a legal right or of
6.13 members of a labor organization for the purpose of preventing individuals who are blacklisted
6.14 from obtaining or retaining employment;

6.15 (7) to engage or contract for the services of a person who is an employee of another if
6.16 the employee is paid a wage that is less than the wage to be paid by the engaging or
6.17 contracting employer under an existing union contract for work of the same grade or
6.18 classification;

6.19 (8) willfully and knowingly to utilize a professional strikebreaker to replace an employee
6.20 or employees involved in a strike or lockout at a place of business located within this state;
6.21 or

6.22 (9) to grant or offer to grant the status of permanent replacement employee to a person
6.23 for performing bargaining unit work for an employer during a lockout of employees in a
6.24 labor organization or during a strike of employees in a labor organization authorized by a
6.25 representative of employees.

6.26 ~~The violation of (b) It is an unlawful act to violate paragraph (a), clause (2), (4), (5), (6),~~
6.27 ~~(7), (8), or (9) is an unlawful act.~~

6.28 Sec. 8. Minnesota Statutes 2022, section 179.254, subdivision 1, is amended to read:

6.29 Subdivision 1. **Scope.** For the purposes of sections 179.254 to ~~179.256~~ 179.257, the
6.30 ~~following~~ terms shall defined in this section have the meanings ~~subscribed to~~ given them.

7.1 Sec. 9. Minnesota Statutes 2022, section 179.256, is amended to read:

7.2 **179.256 NOTIFICATION NOTIFYING CONSTRUCTION WORKER OF**
 7.3 **REIMBURSEMENT.**

7.4 Whenever a construction worker may qualify for the reimbursement of benefit payments
 7.5 to a ~~home~~ benefit fund ~~as described in~~ under section 179.255, the trustees of the benefit
 7.6 fund of which the worker is a member, or their agent, shall so notify the trustees of the
 7.7 benefit fund to which payments will be made during the temporary period of work. Such
 7.8 notification shall be made promptly in writing and shall include the name, address, and
 7.9 Social Security number of the construction worker and the starting date of the temporary
 7.10 period of work.

7.11 Sec. 10. Minnesota Statutes 2022, section 179.26, is amended to read:

7.12 **179.26 DEFINITIONS; CERTAIN REPRESENTATION DISPUTES.**

7.13 When used in sections 179.26 to 179.29, unless the context clearly indicates otherwise,
 7.14 ~~each of the following words: "employee," "labor organization," "strike," and "lockout shall"~~
 7.15 have the ~~meaning ascribed to it~~ meanings given them in section 179.01.

7.16 Sec. 11. Minnesota Statutes 2022, section 179.27, is amended to read:

7.17 **179.27 STRIKES OR BOYCOTTS PROHIBITED.**

7.18 When certification of a representative of employees for collective bargaining purposes
 7.19 has been made by proper federal or state authority, it is unlawful during the effective period
 7.20 of such certification for any employee, representative of employees, or labor organization
 7.21 to conduct a strike or boycott against the employer of such employees or to picket any place
 7.22 of business of the employer in order, by such strike, boycott, or picketing, to:

7.23 (1) ~~to~~ deny the right of the representative so certified to act as such representative ~~or;~~

7.24 (2) ~~to~~ prevent such representative from acting as authorized by such certification; ~~or~~

7.25 (3) ~~to~~ interfere with the business of the employer in an effort to do either act ~~specified~~
 7.26 ~~in clauses~~ under clause (1) and or (2) hereof.

7.27 Sec. 12. Minnesota Statutes 2022, section 179.35, subdivision 1, is amended to read:

7.28 Subdivision 1. **Scope.** Unless the language or context clearly indicates that a different
 7.29 meaning is intended, the ~~following words, terms and phrases, for the purposes of sections~~

8.1 ~~179.35 to 179.39, shall be given~~ defined in this section have the meanings ~~subjoined to~~
 8.2 given them for purposes of sections 179.35 to 179.39.

8.3 Sec. 13. Minnesota Statutes 2022, section 179.40, is amended to read:

8.4 **179.40 SECONDARY BOYCOTT; ~~DECLARATION OF~~ PUBLIC POLICY.**

8.5 (a) As a guide to the interpretation and application of sections 179.40 to 179.47, the
 8.6 public policy of this state is declared to be:

8.7 (1) to protect and promote the interests of the public, employees, and employers alike,
 8.8 with due regard to the situation and to the rights of the others;

8.9 (2) to promote industrial peace, regular and adequate income for employees, and
 8.10 uninterrupted production of goods and services; and

8.11 (3) to reduce the serious menace to the health, morals, and welfare of the people of this
 8.12 state arising from economic insecurity due to stoppages and interruptions of business and
 8.13 employment.

8.14 (b) It is recognized that whatever may be the rights of disputants with respect to each
 8.15 other in any controversy, they should not be permitted, in their controversy, to intrude
 8.16 directly into the primary rights of third parties to earn a livelihood, transact business, and
 8.17 engage in the ordinary affairs of life by lawful means and free from molestation, interference,
 8.18 restraint, or coercion. The legislature, therefore, declares that, in its considered judgment,
 8.19 the public good and the general welfare of the citizens of this state will be promoted by
 8.20 prohibiting secondary boycotts and other coercive practices in this state.

8.21 Sec. 14. Minnesota Statutes 2022, section 179.43, is amended to read:

8.22 **179.43 ILLEGAL COMBINATION; ~~VIOLATION OF~~ VIOLATING PUBLIC**
 8.23 **POLICY.**

8.24 A secondary boycott as ~~hereinbefore~~ defined under section 179.41 is ~~hereby declared~~
 8.25 ~~to be~~ an illegal combination in restraint of trade and in violation of the public policy of this
 8.26 state.

8.27 Sec. 15. Minnesota Statutes 2022, section 179A.02, is amended to read:

8.28 **179A.02 CITATION.**

8.29 Sections 179A.01 to 179A.25 ~~shall be known~~ may be cited as the "Public Employment
 8.30 Labor Relations Act."

9.1 Sec. 16. Minnesota Statutes 2022, section 179A.03, subdivision 17, is amended to read:

9.2 Subd. 17. **Supervisory employee.** (a) "Supervisory employee" means a person who has
9.3 the authority to undertake a majority of the following supervisory functions in the interests
9.4 of the employer: hiring, transfer, suspension, promotion, discharge, assignment, reward, or
9.5 discipline of other employees, direction of the work of other employees, or adjustment of
9.6 other employees' grievances on behalf of the employer. To be included as a supervisory
9.7 function which the person has authority to undertake, the exercise of the authority by the
9.8 person may not be merely routine or clerical in nature but must require the use of independent
9.9 judgment. An employee, other than an essential employee, who has authority to effectively
9.10 recommend a supervisory function, is deemed to have authority to undertake that supervisory
9.11 function for the purposes of this subdivision. The administrative head of a municipality,
9.12 municipal utility, or police or fire department, and the administrative head's assistant, are
9.13 always considered supervisory employees.

9.14 (b) The removal of employees by the employer from a nonsupervisory appropriate unit
9.15 for the purpose of designating the employees as "supervisory employees" shall require either
9.16 the prior written agreement of the exclusive representative and the written approval of the
9.17 commissioner or a separate determination by the commissioner before the redesignation is
9.18 effective.

9.19 Sec. 17. Minnesota Statutes 2022, section 179A.06, subdivision 1, is amended to read:

9.20 Subdivision 1. ~~Expression of~~ Expressing views. (a) Sections 179A.01 to 179A.25 do
9.21 not affect the right of any public employee or the employee's representative to express or
9.22 communicate a view, grievance, complaint, or opinion on any matter related to the conditions
9.23 or compensation of public employment or their betterment, so long as this is not designed
9.24 to and does not interfere with the full faithful and proper performance of the duties of
9.25 employment or circumvent the rights of the exclusive representative. Sections 179A.01 to
9.26 179A.25 do not require any public employee to perform labor or services against the
9.27 employee's will.

9.28 (b) If no exclusive representative has been certified, any public employee individually,
9.29 or group of employees through their representative, has the right to express or communicate
9.30 a view, grievance, complaint, or opinion on any matter related to the conditions or
9.31 compensation of public employment or their betterment, by meeting with their public
9.32 employer or the employer's representative, so long as this is not designed to and does not
9.33 interfere with the full, faithful, and proper performance of the duties of employment.

10.1 Sec. 18. Minnesota Statutes 2022, section 179A.06, subdivision 2, is amended to read:

10.2 Subd. 2. **Right to organize.** (a) Public employees have the right to form and join labor
10.3 or employee organizations, and have the right not to form and join such organizations.
10.4 Public employees in an appropriate unit have the right by secret ballot to designate an
10.5 exclusive representative to negotiate grievance procedures and the terms and conditions of
10.6 employment with their employer. Confidential employees of the state, confidential court
10.7 employees, and confidential University of Minnesota employees are excluded from
10.8 bargaining. Supervisory and managerial court employees are excluded from bargaining.
10.9 Supervisory, managerial, and confidential employees of Hennepin Healthcare System, Inc.,
10.10 are excluded from bargaining. Other confidential employees, supervisory employees,
10.11 principals, and assistant principals may form their own organizations. An employer shall
10.12 extend exclusive recognition to a representative of or an organization of supervisory or
10.13 confidential employees, or principals and assistant principals, for the purpose of negotiating
10.14 terms or conditions of employment, in accordance with sections 179A.01 to 179A.25,
10.15 applicable to essential employees.

10.16 (b) Supervisory or confidential employee organizations shall not participate in any
10.17 capacity in any negotiations which involve units of employees other than supervisory or
10.18 confidential employees. Except for organizations which represent supervisors who are: (1)
10.19 firefighters, emergency medical service employees certified under section 144E.28, 911
10.20 system public safety dispatchers, peace officers subject to licensure under sections 626.84
10.21 to 626.863, guards at correctional facilities, or employees at hospitals other than state
10.22 hospitals; and (2) not state or University of Minnesota employees, a supervisory or
10.23 confidential employee organization which is affiliated with another employee organization
10.24 which is the exclusive representative of nonsupervisory or nonconfidential employees of
10.25 the same public employer shall not be certified, or act as, an exclusive representative for
10.26 the supervisory or confidential employees. For the purpose of this subdivision, affiliation
10.27 means either direct or indirect and includes affiliation through a federation or joint body of
10.28 employee organizations.

10.29 Sec. 19. Minnesota Statutes 2022, section 179A.06, subdivision 3, is amended to read:

10.30 Subd. 3. **Fair share fee.** (a) An exclusive representative may require employees who
10.31 are not members of the exclusive representative to contribute a fair share fee for services
10.32 rendered by the exclusive representative. The fair share fee must be equal to the regular
10.33 membership dues of the exclusive representative, less the cost of benefits financed through
10.34 the dues and available only to members of the exclusive representative. In no event may

11.1 the fair share fee exceed 85 percent of the regular membership dues. The exclusive
 11.2 representative shall provide advance written notice of the amount of the fair share fee to
 11.3 the employer and to unit employees who will be assessed the fee. The employer shall provide
 11.4 the exclusive representative with a list of all unit employees.

11.5 (b) A challenge by an employee or by a person aggrieved by the fee must be filed in
 11.6 writing with the commissioner, the public employer, and the exclusive representative within
 11.7 30 days after receipt of the written notice. All challenges must specify those portions of the
 11.8 fee challenged and the reasons for the challenge. The burden of proof relating to the amount
 11.9 of the fair share fee is on the exclusive representative. The commissioner shall hear and
 11.10 decide all issues in these challenges.

11.11 (c) The employer shall deduct the fee from the earnings of the employee and transmit
 11.12 the fee to the exclusive representative 30 days after the written notice was provided. If a
 11.13 challenge is filed, the deductions for a fair share fee must be held in escrow by the employer
 11.14 pending a decision by the commissioner.

11.15 Sec. 20. Minnesota Statutes 2022, section 179A.08, subdivision 2, is amended to read:

11.16 Subd. 2. **Meet and confer.** The professional employees shall select a representative to
 11.17 meet and confer with a representative or committee of the public employer on matters not
 11.18 specified under section 179A.03, subdivision 19, relating to the services being provided to
 11.19 the public. The public employer shall provide the facilities and set the time for these
 11.20 ~~conferences~~ meetings to take place. The parties shall meet at least once every four months.

11.21 Sec. 21. Minnesota Statutes 2022, section 179A.10, subdivision 1, is amended to read:

11.22 Subdivision 1. **Exclusions.** (a) The commissioner of management and budget shall meet
 11.23 and negotiate with the exclusive representative of each of the units specified in this section,
 11.24 except as provided in section 43A.06, subdivision 1, paragraph (c). The units provided in
 11.25 this section are the only appropriate units for executive branch state employees. The following
 11.26 employees shall be excluded from any appropriate unit:

11.27 (1) the positions and classes of positions in the classified and unclassified services defined
 11.28 as managerial by the commissioner of management and budget in accordance with section
 11.29 43A.18, subdivision 3, and so designated in the official state compensation schedules;

11.30 (2) unclassified positions in the Minnesota State Colleges and Universities defined as
 11.31 managerial by the Board of Trustees;

11.32 (3) positions of all unclassified employees appointed by a constitutional officer;

12.1 (4) positions in the Bureau of Mediation Services and the Public Employment Relations
12.2 Board;

12.3 (5) positions of employees whose classification is pilot or chief pilot;

12.4 (6) administrative law judge and compensation judge positions in the Office of
12.5 Administrative Hearings;

12.6 (7) positions of all confidential employees; and

12.7 (8) positions of employees of the State Board of Investment who are employed under
12.8 the terms and conditions of the compensation plan approved under section 43A.18,
12.9 subdivision 3b.

12.10 (b) The governor may upon the unanimous written request of exclusive representatives
12.11 of units and the commissioner direct that negotiations be conducted for one or more units
12.12 in a common proceeding or that supplemental negotiations be conducted for portions of a
12.13 unit or units defined on the basis of appointing authority or geography.

12.14 Sec. 22. Minnesota Statutes 2022, section 179A.104, subdivision 1, is amended to read:

12.15 Subdivision 1. **Employee units.** (a) The state Board of Public Defense shall meet and
12.16 negotiate with the exclusive representative of each of the statewide units specified in this
12.17 section. The units provided in this section are the only appropriate statewide units for state
12.18 employees of the board. Employees of the state Board of Public Defense, unless otherwise
12.19 excluded, are included within the units which include the classifications to which they are
12.20 assigned for purposes of compensation. The following are the appropriate statewide units
12.21 of state employees of the board:

12.22 (1) Assistant District and Assistant State Public Defender Unit; and

12.23 (2) Clerical and Support Staff Unit.

12.24 (b) Each unit consists of the classifications or positions assigned to it in the schedule of
12.25 job classifications and positions maintained by the state Board of Public Defense.

12.26 Sec. 23. Minnesota Statutes 2022, section 179A.12, subdivision 1, is amended to read:

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

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

13.7 Sec. 24. Minnesota Statutes 2022, section 179A.15, is amended to read:

13.8 **179A.15 MEDIATION.**

13.9 Subdivision 1. **Petitioning commissioner.** Once notice has been given under section
13.10 179A.14, the employer or the exclusive representative may petition the commissioner for
13.11 mediation services.

13.12 Subd. 2. **Petition requirements; scheduling mediation.** (a) A petition by an employer
13.13 shall be signed by the employer or an authorized officer or agent. A petition by an exclusive
13.14 representative shall be signed by its authorized officer. All petitions shall be served on the
13.15 commissioner in writing. The petition shall state briefly the nature of the disagreement of
13.16 the parties.

13.17 (b) Upon receipt of a petition and upon concluding that mediation would be useful, the
13.18 commissioner shall fix a time and place for a ~~conference~~ meeting with the parties to negotiate
13.19 the issues not agreed upon, and shall then take the most expedient steps to bring about a
13.20 settlement, including assisting in negotiating and drafting an agreement.

13.21 Subd. 3. **Commissioner-initiated mediation.** If the commissioner determines that
13.22 mediation would be useful in resolving a dispute, the commissioner may mediate the dispute
13.23 even if neither party has filed a petition for mediation. In these cases, the commissioner
13.24 shall proceed as if a petition had been filed.

13.25 Subd. 4. **Mediation restricted.** The commissioner shall not furnish mediation services
13.26 to any employee or employee representative who is not certified as an exclusive
13.27 representative.

13.28 Subd. 5. **Mediation meetings.** All parties shall respond to the summons of the
13.29 commissioner for ~~conferences~~ meetings and shall continue ~~in conference~~ meeting until
13.30 excused by the commissioner.

14.1 Sec. 25. Minnesota Statutes 2022, section 179A.16, subdivision 1, is amended to read:

14.2 Subdivision 1. **Petitioning for arbitration; nonessential employees.** (a) An exclusive
 14.3 representative or an employer of a unit of employees other than essential employees may
 14.4 request interest arbitration by providing written notice of the request to the other party and
 14.5 the commissioner. The written request for arbitration must specify the items to be submitted
 14.6 to arbitration and whether conventional, final-offer total-package, or final-offer item-by-item
 14.7 arbitration is contemplated by the request.

14.8 (b) The items to be submitted to arbitration and the form of arbitration to be used are
 14.9 subject to mutual agreement. If an agreement to arbitrate is reached, it must be reduced to
 14.10 writing and a copy of the agreement filed with the commissioner. A failure to respond, or
 14.11 to reach agreement on the items or form of arbitration, within 15 days of receipt of the
 14.12 request to arbitrate constitutes a rejection of the request.

14.13 Sec. 26. Minnesota Statutes 2022, section 179A.16, subdivision 7, is amended to read:

14.14 Subd. 7. ~~Decision by Arbitrator or arbitrator panel; issuing decision.~~ (a) The decision
 14.15 must be issued by the arbitrator or a majority vote of the panel. The decision must resolve
 14.16 the issues in dispute between the parties as submitted by the commissioner. For principals
 14.17 and assistant principals, the arbitrator or panel is restricted to selecting between the final
 14.18 offers of the parties on each impasse item. For other employees, if the parties agree in
 14.19 writing, the arbitrator or panel is restricted to selecting between the final offers of the parties
 14.20 on each impasse item, or the final offer of one or the other parties in its entirety. In
 14.21 considering a dispute and issuing its decision, the arbitrator or panel shall consider the
 14.22 statutory rights and obligations of public employers to efficiently manage and conduct their
 14.23 operations within the legal limitations surrounding the financing of these operations. The
 14.24 decision is final and binding on all parties.

14.25 (b) The arbitrator or panel shall render its decision within 30 days from the date that all
 14.26 arbitration proceedings have concluded. The arbitrator or panel may not request that the
 14.27 parties waive their right to have the decision rendered within 30 days, unless the
 14.28 commissioner grants an extension of the deadline. The commissioner shall remove from
 14.29 the roster for six months the name of any arbitrator who does not render the decision within
 14.30 30 days or within the extension granted by the commissioner. The commissioner shall adopt
 14.31 rules establishing criteria to be followed in determining whether an extension should be
 14.32 granted. The decision must be for the period stated in the decision, except that decisions
 14.33 determining contracts for teacher units are effective to the end of the contract period
 14.34 determined by section 179A.20.

15.1 (c) The arbitrator or panel shall send its decision to the commissioner, the appropriate
 15.2 representative of the public employer, and the employees. If any issues submitted to
 15.3 arbitration are settled voluntarily before the arbitrator or panel issues a decision, the arbitrator
 15.4 or panel shall report the settlement to the commissioner.

15.5 (d) The parties may, at any time before or after issuance of a decision of the arbitrator
 15.6 or panel, agree upon terms and conditions of employment regardless of the terms and
 15.7 conditions of employment determined by the decision. The parties shall, if so agreeing,
 15.8 execute a written contract or memorandum of contract.

15.9 Sec. 27. Minnesota Statutes 2022, section 179A.18, subdivision 2, is amended to read:

15.10 Subd. 2. **School district requirements.** Except as otherwise provided by section 179A.17,
 15.11 subdivision 1, teachers employed by a local school district, other than principals and assistant
 15.12 principals, may strike only under the following circumstances:

15.13 (1)(i) the collective bargaining agreement between their exclusive representative and
 15.14 their employer has expired or, if there is no agreement, impasse under section 179A.17,
 15.15 subdivision 1, has occurred; and

15.16 (ii) the exclusive representative and the employer have participated in mediation over
 15.17 a period of at least 30 days. For the purposes of this item the mediation period commences
 15.18 on the day that a mediator designated by the commissioner first attends a ~~conference~~ meeting
 15.19 with the parties to negotiate the issues not agreed upon; and

15.20 (iii) neither party has requested interest arbitration or a request for binding interest
 15.21 arbitration has been rejected; or

15.22 (2) the employer violates section 179A.13, subdivision 2, clause (9).

15.23 Sec. 28. Minnesota Statutes 2022, section 179A.18, subdivision 3, is amended to read:

15.24 Subd. 3. **Strike notice.** (a) In addition to the other requirements of this section, no
 15.25 employee may strike unless written notification of intent to strike is served on the employer
 15.26 and the commissioner by the exclusive representative at least ten days prior to the
 15.27 commencement of the strike. For all employees other than teachers, if more than 30 days
 15.28 have expired after service of a notification of intent to strike, no strike may commence until
 15.29 ten days after service of a new written notification. For teachers, no strike may commence
 15.30 more than 25 days after service of notification of intent to strike unless, before the end of
 15.31 the 25-day period, the exclusive representative and the employer agree that the period during
 15.32 which a strike may commence shall be extended for an additional period not to exceed five

16.1 days. Teachers are limited to one notice of intent to strike for each contract negotiation
 16.2 period, provided, however, that a strike notice may be renewed for an additional ten days,
 16.3 the first five of which shall be a notice period during which no strike may occur, if the
 16.4 following conditions have been satisfied:

16.5 (1) an original notice was provided pursuant to this section; ~~and~~

16.6 (2) a tentative agreement to resolve the dispute was reached during the original strike
 16.7 notice period; and

16.8 (3) such tentative agreement was rejected by either party during or after the original
 16.9 strike notice period.

16.10 (b) The first day of the renewed strike notice period shall commence on the day following
 16.11 the expiration of the previous strike notice period or the day following the rejection of the
 16.12 tentative agreement, whichever is later. Notification of intent to strike under subdivisions
 16.13 1, clause (1); and 2, clause (1), may not be served until the collective bargaining agreement
 16.14 has expired, or if there is no agreement, on or after the date impasse under section 179A.17
 16.15 has occurred.

16.16 Sec. 29. Minnesota Statutes 2022, section 179A.19, subdivision 6, is amended to read:

16.17 Subd. 6. **Hearings.** (a) Any public employee is entitled to request the opportunity to
 16.18 establish that the employee did not violate this section. The request shall be filed in writing
 16.19 with the officer or body having the power to remove the employee, within ten days after
 16.20 notice of termination is served upon the employee. The employing officer or body shall
 16.21 within ten days commence a proceeding at which the employee shall be entitled to be heard
 16.22 for the purpose of determining whether the provisions of this section have been violated by
 16.23 the public employee. If there are contractual grievance procedures, laws or rules establishing
 16.24 proceedings to remove the public employee, the hearing shall be conducted in accordance
 16.25 with whichever procedure the employee elects. The election shall be binding and shall
 16.26 terminate any right to the alternative procedures. The same proceeding may include more
 16.27 than one employee's employment status if the employees' defenses are identical, analogous,
 16.28 or reasonably similar. The proceedings shall be undertaken without unnecessary delay.

16.29 (b) Any person whose termination is sustained in the administrative or grievance
 16.30 proceeding may appeal in accordance with chapter 14.

17.1 Sec. 30. Minnesota Statutes 2022, section 179A.20, subdivision 4, is amended to read:

17.2 Subd. 4. **Grievance procedure.** (a) All contracts must include a grievance procedure
 17.3 providing for compulsory binding arbitration of grievances including all written disciplinary
 17.4 actions. If the parties cannot agree on the grievance procedure, they are subject to the
 17.5 grievance procedure ~~promulgated~~ adopted by the commissioner under section 179A.04,
 17.6 subdivision 3, paragraph (a), clause ~~(h)~~ (8).

17.7 (b) Notwithstanding any home rule charter to the contrary, after the probationary period
 17.8 of employment, any disciplinary action is subject to the grievance procedure and compulsory
 17.9 binding arbitration.

17.10 (c) Employees covered by civil service systems created under chapter 43A, 44, 375,
 17.11 387, 419, or 420, by a home rule charter under chapter 410, or by Laws 1941, chapter 423,
 17.12 may pursue a grievance through the procedure established under this section. When the
 17.13 grievance is also within the jurisdiction of appeals boards or appeals procedures created by
 17.14 chapter 43A, 44, 375, 387, 419, or 420, by a home rule charter under chapter 410, or by
 17.15 Laws 1941, chapter 423, the employee may proceed through the grievance procedure or the
 17.16 civil service appeals procedure, but once a written grievance or appeal has been properly
 17.17 filed or submitted by the employee or on the employee's behalf with the employee's consent
 17.18 the employee may not proceed in the alternative manner.

17.19 (d) A teacher who elects a hearing before an arbitrator under section 122A.40, subdivision
 17.20 15, or 122A.41, subdivision 13, or who elects or acquiesces to a hearing before the school
 17.21 board may not later proceed in the alternative manner nor challenge the termination or
 17.22 discharge through a grievance procedure required by this subdivision.

17.23 (e) This section does not require employers or employee organizations to negotiate on
 17.24 matters other than terms and conditions of employment.

17.25 Sec. 31. Minnesota Statutes 2022, section 179A.23, is amended to read:

17.26 **179A.23 LIMITATION ON CONTRACTING-OUT OF SERVICES PROVIDED**
 17.27 **BY MEMBERS OF A STATE OF MINNESOTA OR UNIVERSITY OF MINNESOTA**
 17.28 **BARGAINING UNIT.**

17.29 (a) Any contract entered into after March 23, 1982, by the state of Minnesota or the
 17.30 University of Minnesota involving services, any part of which, in the absence of the contract,
 17.31 would be performed by members of a unit provided in sections 179A.10 and 179A.11, shall
 17.32 be subject to section 16C.06 and shall provide for the preferential employment by a party

18.1 of members of that unit whose employment with the state of Minnesota or the University
18.2 of Minnesota is terminated as a result of that contract.

18.3 (b) Contracts entered into by the state of Minnesota for the purpose of providing court
18.4 reporter services or transcription of the record of a hearing which was recorded by means
18.5 of an audio magnetic recording device shall be subject to section 16C.08 and the preferential
18.6 employment provisions enumerated in this section. Any court reporter seeking a contract
18.7 pursuant to the preferential employment provisions of this section shall be given preference
18.8 when the services are needed only if that court reporter's charges for the services requested
18.9 are no greater than the average of the charges made for the identical services by other court
18.10 reporters in the same locality who are also under contract with the state for those services.

18.11 Sec. 32. Minnesota Statutes 2022, section 626.892, subdivision 12, is amended to read:

18.12 Subd. 12. **Interaction with other laws.** (a) Sections 179A.21, subdivision 2, and 572B.11,
18.13 paragraph (a), and rules for arbitrator selection promulgated pursuant to section 179A.04
18.14 shall not apply to discipline-related grievance arbitrations involving peace officers governed
18.15 under this section.

18.16 (b) Notwithstanding any contrary provision of law, home rule charter, ordinance, or
18.17 resolution, peace officers, through their certified exclusive representatives, shall not have
18.18 the right to negotiate for or agree to a collective bargaining agreement or a grievance
18.19 arbitration selection procedure with their employers that is inconsistent with this section.

18.20 (c) The arbitrator selection procedure for peace officer grievance arbitrations established
18.21 under this section supersedes any inconsistent provisions in chapter 179A or 572B or in
18.22 Minnesota Rules, chapters 5500 to 5530 and ~~7315 to~~ 7325. Other arbitration requirements
18.23 in those chapters remain in full force and effect for peace officer grievance arbitrations,
18.24 except as provided in this section or to the extent inconsistent with this section.

18.25 Sec. 33. **REVISOR INSTRUCTION.**

18.26 The revisor shall renumber Minnesota Statutes, section 179.35, subdivision 5, as
18.27 Minnesota Statutes, section 179.35, subdivision 7.

18.28 Sec. 34. **REPEALER.**

18.29 Minnesota Rules, part 5510.0310, subpart 13, is repealed.

5510.0310 DEFINITIONS.

Subp. 13. **Hearing officer or mediator.** "Hearing officer" or "mediator" means the commissioner or an authorized agent.