

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3428

(SENATE AUTHORS: MCEWEN)

DATE	D-PG	OFFICIAL STATUS
02/12/2024	11536	Introduction and first reading Referred to Labor
02/22/2024	11690a	Comm report: To pass as amended and re-refer to State and Local Government and Veterans
03/21/2024		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act

1.2 relating to labor; making technical and policy changes to certain public employee

1.3 labor relations provisions; requiring rulemaking; amending Minnesota Statutes

1.4 2022, section 179A.12, subdivision 5; Minnesota Statutes 2023 Supplement,

1.5 sections 179A.041, subdivision 10; 179A.06, subdivision 6; 179A.07, subdivisions

1.6 8, 9; 179A.10, subdivision 2; 179A.12, subdivisions 2a, 6, 11.

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

1.8 Section 1. Minnesota Statutes 2023 Supplement, section 179A.041, subdivision 10, is

1.9 amended to read:

1.10 Subd. 10. **Open Meeting Law; exceptions.** Chapter 13D does not apply to meetings of

1.11 ~~the~~ a board meeting when ~~it~~ the board is:

1.12 (1) deliberating on the merits of an unfair labor practice ~~charges~~ charge under sections

1.13 179.11, 179.12, and 179A.13;

1.14 (2) reviewing a hearing officer's recommended decision and order ~~of a hearing officer~~

1.15 under section 179A.13; or

1.16 (3) reviewing ~~decisions of the~~ a commissioner ~~of the Bureau of Mediation Services~~

1.17 ~~relating to~~ decision on an unfair labor ~~practices~~ practice under section 179A.12, subdivision

1.18 11.

1.19 Sec. 2. Minnesota Statutes 2023 Supplement, section 179A.06, subdivision 6, is amended

1.20 to read:

1.21 Subd. 6. **Payroll deduction, authorization, and remittance.** (a) Public employees ~~have~~

1.22 ~~the right to~~ may request ~~and be allowed~~ payroll deduction for the exclusive representative

2.1 and ~~the~~ its associated political fund associated with the exclusive representative and registered
 2.2 pursuant to under section 10A.12. If there is no exclusive representative, public employees
 2.3 may request payroll deduction for the organization of their choice. A public employer must
 2.4 provide payroll deduction according to any public employee's request under this paragraph.

2.5 (b) A public employer must rely on a certification from ~~any~~ an exclusive representative
 2.6 requesting remittance of a deduction that the organization has and will maintain an
 2.7 authorization, signed, either by hand or electronically according to section 325L.02, paragraph
 2.8 (h), by the public employee from whose salary or wages the deduction is to be made, ~~which~~
 2.9 may include an electronic signature by the public employee as defined in section 325L.02,
 2.10 paragraph (h). An exclusive representative making such a certification ~~must not be~~ is not
 2.11 required to provide the public employer a copy of the authorization unless a dispute arises
 2.12 about the authorization's existence or terms of the authorization. The exclusive representative
 2.13 must indemnify the public employer for any successful claims made by the employee for
 2.14 unauthorized deductions in reliance on the certification.

2.15 ~~(b) (c)~~ (c) A dues payroll deduction authorization ~~remains in effect~~ is effective until the
 2.16 exclusive representative notifies the employer ~~receives notice from the exclusive~~
 2.17 representative that a public employee has changed or canceled ~~their~~ the employee's
 2.18 authorization in writing in accordance with the terms of the original ~~authorizing document,~~
 2.19 ~~and~~ authorization. When determining whether deductions have been properly changed or
 2.20 canceled, a public employer must rely on information from the exclusive representative
 2.21 receiving remittance of the deduction ~~regarding whether the deductions have been properly~~
 2.22 ~~changed or canceled. The exclusive representative must indemnify the public employer,~~
 2.23 ~~including any reasonable attorney fees and litigation costs, for any successful claims made~~
 2.24 ~~by the employee for unauthorized deductions made in reliance on such information.~~

2.25 ~~(e)~~ (d) Deduction authorization under this section is:

2.26 (1) independent from the public employee's membership status in the organization to
 2.27 which payment is remitted; and ~~is~~

2.28 (2) effective regardless of whether a collective bargaining agreement authorizes the
 2.29 deduction.

2.30 ~~(d) Employers~~ (c) An employer must ~~commence~~:

2.31 (1) begin deductions within 30 days ~~of notice of authorization from the~~ after an exclusive
 2.32 representative submits a certification under paragraph (b); and must

3.1 (2) remit the deductions to the exclusive representative within 30 days of the deduction.
 3.2 ~~The failure of an employer to comply with the provisions of this paragraph shall be an unfair~~
 3.3 ~~labor practice under section 179A.13, the relief for which shall be reimbursement by the~~
 3.4 ~~employer of deductions that should have been made or remitted based on a valid authorization~~
 3.5 ~~given by the employee or employees.~~

3.6 ~~(e) In the absence of an exclusive representative, public employees have the right to~~
 3.7 ~~request and be allowed payroll deduction for the organization of their choice.~~

3.8 (f) An exclusive representative must indemnify a public employer:

3.9 (1) for any successful employee claim for unauthorized employer deductions made by
 3.10 relying on an exclusive representative's certification under paragraph (b); and

3.11 (2) for any successful employee claim for unauthorized employer deductions made by
 3.12 relying on information for changing or canceling deductions under paragraph (c), with
 3.13 indemnification including any reasonable attorney fees and litigation costs.

3.14 ~~(f) (g) Any dispute under this subdivision must be resolved through an unfair labor~~
 3.15 ~~practice proceeding under section 179A.13. It is an unfair labor practice if an employer fails~~
 3.16 ~~to comply with paragraph (e), and the employer must reimburse deductions that should have~~
 3.17 ~~been made or remitted based on a valid authorization given by the employee or employees.~~

3.18 Sec. 3. Minnesota Statutes 2023 Supplement, section 179A.07, subdivision 8, is amended
 3.19 to read:

3.20 Subd. 8. **Bargaining unit information.** (a) Within 20 calendar days ~~from the date of~~
 3.21 ~~hire of~~ after a bargaining unit employee is hired, a public employer must provide the
 3.22 following ~~contact~~ information on the employee to an ~~an~~ the unit's exclusive representative in
 3.23 an Excel file format or other format agreed to by the exclusive representative:

3.24 (1) name;

3.25 (2) job title;

3.26 (3) worksite location, including location ~~within~~ in a facility when appropriate;

3.27 (4) home address;

3.28 (5) work telephone number;

3.29 (6) home and personal cell phone numbers on file with the public employer;

3.30 (7) date of hire; and

3.31 (8) work email address and personal email address on file with the public employer.

4.1 (b) Every 120 calendar days ~~beginning on January 1, 2024~~, a public employer must
 4.2 provide to ~~an~~ a bargaining unit's exclusive representative in an Excel file or similar format
 4.3 agreed to by the exclusive representative the ~~following~~ information under paragraph (a) for
 4.4 all bargaining unit employees: ~~name; job title; worksite location, including location within~~
 4.5 ~~a facility when appropriate; home address; work telephone number; home and personal cell~~
 4.6 ~~phone numbers on file with the public employer; date of hire; and work email address and~~
 4.7 ~~personal email address on file with the public employer.~~

4.8 (c) ~~A public employer must notify an exclusive representative within 20 calendar days~~
 4.9 ~~of the separation of~~ If a bargaining unit employee separates from employment or transfer
 4.10 transfers out of the a bargaining unit of a bargaining unit employee, the employee's public
 4.11 employer must notify the employee's exclusive representative within 20 calendar days after
 4.12 the separation or transfer.

4.13 Sec. 4. Minnesota Statutes 2023 Supplement, section 179A.07, subdivision 9, is amended
 4.14 to read:

4.15 Subd. 9. **Access.** (a) A public employer must allow an exclusive representative to meet
 4.16 in person with a newly hired employees, without charge to the pay or leave time of the
 4.17 employees, for 30 minutes, employee within 30 calendar days from the date of hire; during
 4.18 new employee orientations or, if the employer does not conduct new employee orientations,
 4.19 at individual or group meetings. For an orientation or meeting under this paragraph, an
 4.20 employer must allow the employee and exclusive representative up to 30 minutes to meet
 4.21 and must not charge the employee's pay or leave time during the orientation or meeting. An
 4.22 orientation or meeting may be held virtually or for longer than 30 minutes only by mutual
 4.23 agreement of the employer and exclusive representative.

4.24 (b) An exclusive representative ~~shall~~ must receive ~~no less than~~ at least ten days' notice
 4.25 ~~in advance~~ of an orientation, ~~except that~~ but a shorter notice may be provided ~~where~~ if there
 4.26 is an urgent need critical to the employer's operations ~~of the public employer~~ that was not
 4.27 reasonably foreseeable. Notice of and attendance at new employee orientations and other
 4.28 meetings under this paragraph ~~must be~~ and paragraph (a) are limited to:

4.29 (1) the public employer;;

4.30 (2) the employees;;

4.31 (3) the exclusive representative; and

5.1 ~~(4) any vendor contracted to provide a service for purposes of the meeting. Meetings~~
 5.2 ~~may be held virtually or for longer than 30 minutes only by mutual agreement of the public~~
 5.3 ~~employer and exclusive representative.~~

5.4 ~~(b)~~ (c) A public employer must allow an exclusive representative to communicate with
 5.5 bargaining unit members ~~using their employer-issued email addresses regarding~~ by email
 5.6 on:

5.7 (1) collective bargaining;

5.8 (2) the administration of collective bargaining agreements;

5.9 (3) the investigation of grievances, and other workplace-related complaints and issues;
 5.10 and

5.11 (4) internal matters involving the governance or business of the exclusive representative,
 5.12 ~~consistent with the employer's generally applicable technology use policies.~~

5.13 (d) An exclusive representative may communicate with bargaining unit members under
 5.14 paragraph (c) via the members' employer-issued email addresses, but the communication
 5.15 must be consistent with the employer's generally applicable technology use policies.

5.16 ~~(e)~~ (e) A public employer must allow an exclusive representative to meet with bargaining
 5.17 unit members in facilities owned or leased by the public employer ~~regarding~~ to communicate
 5.18 on:

5.19 (1) collective bargaining;

5.20 (2) the administration of collective bargaining agreements;

5.21 (3) the investigation of grievances and other workplace-related complaints and issues;
 5.22 and

5.23 (4) internal matters involving the governance or business of the exclusive representative,
 5.24 ~~provided the use does not interfere with governmental operations and the exclusive~~
 5.25 ~~representative complies with worksite security protocols established by the public employer.~~

5.26 (f) The following applies for a meeting under paragraph (e):

5.27 (1) a meeting cannot interfere with government operations;

5.28 (2) the exclusive representative must comply with employer-established worksite security
 5.29 protocols;

5.30 ~~Meetings conducted~~ (3) a meeting in a government building pursuant to this paragraph
 5.31 ~~must not~~ building cannot be for the purpose of supporting or opposing any candidate for

6.1 partisan political office or for ~~the purpose of~~ distributing literature or information ~~regarding~~
 6.2 on partisan elections; and

6.3 (4) an exclusive representative conducting a meeting in a government building or other
 6.4 government facility ~~pursuant to this subdivision~~ may be charged for maintenance, security,
 6.5 and other costs related to ~~the use of~~ using the government building or facility that would
 6.6 not otherwise be incurred by the government entity.

6.7 Sec. 5. Minnesota Statutes 2023 Supplement, section 179A.10, subdivision 2, is amended
 6.8 to read:

6.9 Subd. 2. **State employees.** (a) Unclassified employees, unless otherwise excluded, are
 6.10 included within the units ~~which~~ that include the classifications to which they are assigned
 6.11 for purposes of compensation. Supervisory employees ~~shall only~~ can be assigned only to
 6.12 ~~units~~ unit 12 and or 16. The following units are the appropriate units of executive branch
 6.13 state employees:

6.14 (1) law enforcement unit;

6.15 (2) craft, maintenance, and labor unit;

6.16 (3) service unit;

6.17 (4) health care nonprofessional unit;

6.18 (5) health care professional unit;

6.19 (6) clerical and office unit;

6.20 (7) technical unit;

6.21 (8) correctional guards unit;

6.22 (9) state university instructional unit;

6.23 (10) state college instructional unit;

6.24 (11) state university administrative unit;

6.25 (12) professional engineering unit;

6.26 (13) health treatment unit;

6.27 (14) general professional unit;

6.28 (15) professional state residential instructional unit;

6.29 (16) supervisory employees unit;

7.1 (17) public safety radio communications operator unit;

7.2 (18) licensed peace officer special unit; and

7.3 (19) licensed peace officer leader unit.

7.4 ~~Each unit consists of the classifications or positions assigned to it in the schedule of~~
 7.5 ~~state employee job classification and positions maintained by the commissioner. The~~
 7.6 ~~commissioner may only make changes in the schedule in existence on the day prior to~~
 7.7 ~~August 1, 1984, as required by law or as provided in subdivision 4.~~

7.8 (b) The following positions are included in the licensed peace officer special unit:

7.9 (1) State Patrol lieutenant;

7.10 (2) NR district supervisor - enforcement;

7.11 (3) assistant special agent in charge;

7.12 (4) corrections investigation assistant director 2;

7.13 (5) corrections investigation supervisor; and

7.14 (6) commerce supervisor special agent.

7.15 (c) The following positions are included in the licensed peace officer leader unit:

7.16 (1) State Patrol captain;

7.17 (2) NR program manager 2 enforcement; and

7.18 (3) special agent in charge.

7.19 (d) Each unit consists of the classifications or positions assigned to it in the schedule of
 7.20 state employee job classification and positions maintained by the commissioner. The
 7.21 commissioner may make changes in the schedule in existence on the day before August 1,
 7.22 1984, only:

7.23 (1) as required by law; or

7.24 (2) as provided in subdivision 4.

7.25 Sec. 6. Minnesota Statutes 2023 Supplement, section 179A.12, subdivision 2a, is amended
 7.26 to read:

7.27 Subd. 2a. **Majority verification procedure.** (a) ~~Notwithstanding any other provision~~
 7.28 ~~of this section,~~ An employee organization may file a petition with the commissioner
 7.29 requesting certification as the exclusive representative of ~~an~~ a proposed appropriate unit

8.1 ~~based on a verification that~~ for which there is no currently certified exclusive representative.
 8.2 The petition must verify that over 50 percent of the employees in the proposed appropriate
 8.3 unit wish to be represented by the petitioner organization. ~~The commissioner shall require~~
 8.4 ~~dated representation authorization signatures of affected employees as verification of the~~
 8.5 ~~employee organization's claim of majority status.~~

8.6 (b) ~~Upon receipt of an employee organization's petition, accompanied by employee~~
 8.7 ~~authorization signatures under this subdivision, the commissioner shall investigate the~~
 8.8 ~~petition.~~ If the commissioner determines that over 50 percent of the employees in ~~an~~ the
 8.9 appropriate unit have provided authorization signatures designating the petitioning employee
 8.10 organization specified in the petition as their exclusive representative, the commissioner
 8.11 ~~shall not order an election but shall~~ must certify the employee organization as the employees'
 8.12 exclusive representative without ordering an election under this section.

8.13 Sec. 7. Minnesota Statutes 2022, section 179A.12, subdivision 5, is amended to read:

8.14 Subd. 5. **Commissioner to investigate.** ~~The commissioner shall, Upon receipt of an~~
 8.15 ~~employee organization's receiving a petition to the commissioner under subdivision 3 1a~~
 8.16 ~~or 2a, the commissioner must:~~

8.17 (1) investigate to determine if sufficient evidence of a question of representation exists;
 8.18 and

8.19 (2) hold hearings necessary to determine the appropriate unit and other matters necessary
 8.20 to determine the representation rights of the affected employees and employer.

8.21 Sec. 8. Minnesota Statutes 2023 Supplement, section 179A.12, subdivision 6, is amended
 8.22 to read:

8.23 Subd. 6. **Authorization signatures.** ~~In~~ (a) When determining the numerical status of
 8.24 an employee organization for purposes of this section, the commissioner ~~shall~~ must require
 8.25 a dated representation authorization signatures of affected employees signature of each
 8.26 affected employee as verification of the statements contained in the joint request or petitions
 8.27 petition. These

8.28 (b) An authorization signatures shall be signature is privileged and confidential
 8.29 information available to the commissioner only. An electronic signatures signature, as
 8.30 defined in section 325L.02, paragraph (h), ~~shall be~~ is valid as an authorization signatures
 8.31 signature.

9.1 (c) ~~An authorization signatures shall be~~ signature is valid for a ~~period of~~ one year
 9.2 following the signature date of signature.

9.3 Sec. 9. Minnesota Statutes 2023 Supplement, section 179A.12, subdivision 11, is amended
 9.4 to read:

9.5 Subd. 11. **Unfair labor practices.** The commissioner may void the result of an election
 9.6 or majority verification procedure and order a new election or procedure if the commissioner
 9.7 finds that one of the following:

9.8 (1) there was an unfair labor practice that:

9.9 (i) was committed by an employer or, a representative candidate or, an employee, or a
 9.10 group of employees; and ~~that the unfair labor practice~~

9.11 (ii) affected the result of an the election or the majority verification procedure pursuant
 9.12 to subdivision 2a; or ~~that~~

9.13 (2) procedural or other irregularities in the conduct of the election or majority verification
 9.14 procedure may have substantially affected its the results; ~~the commissioner may void the~~
 9.15 ~~result and order a new election or majority verification procedure.~~

9.16 Sec. 10. **RULEMAKING.**

9.17 The commissioner must adopt rules on petitions for majority verification, including
 9.18 technical changes needed for consistency with Minnesota Statutes, section 179A.12, and
 9.19 the commissioner may use the expedited rulemaking process under Minnesota Statutes,
 9.20 section 14.389.

9.21 Sec. 11. **REVISOR INSTRUCTION.**

9.22 The revisor of statutes must renumber Minnesota Statutes, section 179A.12, subdivision
 9.23 3, as Minnesota Statutes, section 179A.12, subdivision 1a.