

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 885

(SENATE AUTHORS: EATON)

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OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
1.2 relating to labor relations; modifying public labor relations; amending Minnesota
1.3 Statutes 2020, sections 13.43, subdivision 6; 179A.03, subdivisions 14, 19;
1.4 179A.06, by adding a subdivision; 179A.07, by adding subdivisions; 572B.17.

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

1.6 Section 1. Minnesota Statutes 2020, section 13.43, subdivision 6, is amended to read:

1.7 Subd. 6. **Access by labor organizations.** Personnel data ~~may~~ must be disseminated to
1.8 labor organizations to the extent ~~that the responsible authority determines that the~~
1.9 ~~dissemination is necessary to conduct elections, notify employees of fair share fee~~
1.10 assessments, and implement the provisions of chapters 179 and 179A. Personnel data shall
1.11 be disseminated to labor organizations and to the Bureau of Mediation Services to the extent
1.12 the dissemination is ordered or authorized by the commissioner of the Bureau of Mediation
1.13 Services.

1.14 Sec. 2. Minnesota Statutes 2020, section 179A.03, subdivision 14, is amended to read:

1.15 Subd. 14. **Public employee or employee.** (a) "Public employee" or "employee" means
1.16 any person appointed or employed by a public employer except:

1.17 (1) elected public officials;

1.18 (2) election officers;

1.19 (3) commissioned or enlisted personnel of the Minnesota National Guard;

1.20 (4) emergency employees who are employed for emergency work caused by natural
1.21 disaster;

2.1 ~~(5) part-time employees whose service does not exceed the lesser of 14 hours per week~~
 2.2 ~~or 35 percent of the normal work week in the employee's appropriate unit;~~

2.3 ~~(6)~~ (5) employees whose positions are basically temporary or seasonal in character and:
 2.4 (i) are not for more than 67 working days in any calendar year; ~~or~~ (ii) are not working for
 2.5 a Minnesota school district or charter school; or (iii) are not for more than 100 working
 2.6 days in any calendar year and the employees are under the age of 22, are full-time students
 2.7 enrolled in a nonprofit or public educational institution prior to being hired by the employer,
 2.8 and have indicated, either in an application for employment or by being enrolled at an
 2.9 educational institution for the next academic year or term, an intention to continue as students
 2.10 during or after their temporary employment;

2.11 ~~(7)~~ (6) employees providing services for not more than two consecutive quarters to the
 2.12 Board of Trustees of the Minnesota State Colleges and Universities under the terms of a
 2.13 professional or technical services contract as defined in section 16C.08, subdivision 1;

2.14 ~~(8)~~ (7) employees of charitable hospitals as defined by section 179.35, subdivision 3,
 2.15 except that employees of charitable hospitals as defined by section 179.35, subdivision 3,
 2.16 are public employees for purposes of sections 179A.051, 179A.052, and 179A.13;

2.17 ~~(9)~~ (8) full-time undergraduate students employed by the school which they attend under
 2.18 a work-study program or in connection with the receipt of financial aid, irrespective of
 2.19 number of hours of service per week;

2.20 ~~(10)~~ (9) an individual who is employed for less than 300 hours in a fiscal year as an
 2.21 instructor in an adult vocational education program;

2.22 ~~(11)~~ (10) an individual hired by the Board of Trustees of the Minnesota State Colleges
 2.23 and Universities to teach one course for three or fewer credits for one semester in a year;

2.24 ~~(12)~~ (11) with respect to court employees:

2.25 (i) personal secretaries to judges;

2.26 (ii) law clerks;

2.27 (iii) managerial employees;

2.28 (iv) confidential employees; and

2.29 (v) supervisory employees; and

2.30 ~~(13)~~ (12) with respect to employees of Hennepin Healthcare System, Inc., managerial,
 2.31 supervisory, and confidential employees.

3.1 (b) The following individuals are public employees regardless of the exclusions of
 3.2 paragraph (a), ~~clauses (5) and (6)~~ clause (5):

3.3 (1) an employee hired by a school district or the Board of Trustees of the Minnesota
 3.4 State Colleges and Universities except at the university established in the Twin Cities
 3.5 metropolitan area under section 136F.10 or for community services or community education
 3.6 instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member
 3.7 who is a public employee, where the replacement employee is employed more than 30
 3.8 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching
 3.9 position created due to increased enrollment, curriculum expansion, courses which are a
 3.10 part of the curriculum whether offered annually or not, or other appropriate reasons;

3.11 (2) an employee hired for a position under paragraph (a), clause ~~(6)~~ (5), item (i), if that
 3.12 same position has already been filled under paragraph (a), clause ~~(6)~~ (5), item (i), in the
 3.13 same calendar year and the cumulative number of days worked in that same position by all
 3.14 employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same
 3.15 position" includes a substantially equivalent position if it is not the same position solely
 3.16 due to a change in the classification or title of the position; and

3.17 (3) an early childhood family education teacher employed by a school district.

3.18 Sec. 3. Minnesota Statutes 2020, section 179A.03, subdivision 19, is amended to read:

3.19 Subd. 19. **Terms and conditions of employment.** "Terms and conditions of employment"
 3.20 means the hours of employment, the compensation therefor including fringe benefits except
 3.21 retirement contributions or benefits other than employer payment of, or contributions to,
 3.22 premiums for group insurance coverage of retired employees or severance pay, class sizes
 3.23 in Minnesota school districts and charter schools, student testing, student to personnel ratios
 3.24 in Minnesota school districts, and the employer's personnel policies affecting the working
 3.25 conditions of the employees. In the case of professional employees the term does not mean
 3.26 educational policies of a school district. "Terms and conditions of employment" is subject
 3.27 to section 179A.07.

3.28 Sec. 4. Minnesota Statutes 2020, section 179A.06, is amended by adding a subdivision to
 3.29 read:

3.30 Subd. 8. **Liability.** (a) A public employer, a labor organization, or any of its employees
 3.31 or agents, shall not be liable for and shall have a complete defense to claims or actions under
 3.32 the laws of this state for requiring, deducting, receiving, or retaining agency or fair share
 3.33 fees from public employees, and current or former public employees shall not have standing

4.1 to pursue these claims or actions if the fees were permitted at the time under the laws of
4.2 this state then in force and paid, through payroll deduction or otherwise, prior to June 27,
4.3 2018.

4.4 (b) This section applies to claims and actions pending on its effective date and to claims
4.5 and actions filed on or after that date.

4.6 (c) The enactment of this section shall not be interpreted to create the inference that any
4.7 relief made unavailable by this section would otherwise be available.

4.8 (d) The legislature finds and declares:

4.9 (1) application of this section to pending claims and actions clarifies existing state law
4.10 rather than changes it. Public employees who paid agency or fair share fees as a condition
4.11 of public employment according to state law and supreme court precedent prior to June 27,
4.12 2018, had no legitimate expectation of receiving the money under any available cause of
4.13 action. Public employers and employee organizations who relied on and abided by state
4.14 law and supreme court precedent in deducting and accepting those fees were not liable to
4.15 refund them. Agency or fair share fees paid for collective bargaining representation that
4.16 employee organizations were obligated by state law to provide to public employees.
4.17 Application of this section to pending claims will preserve, rather than interfere with,
4.18 important reliance interests;

4.19 (2) this section is necessary to provide certainty to public employers and employee
4.20 organizations that relied on state law, and to avoid disruption of public employee labor
4.21 relations.

4.22 **EFFECTIVE DATE.** This section if effective the day following final enactment.

4.23 Sec. 5. Minnesota Statutes 2020, section 179A.07, is amended by adding a subdivision to
4.24 read:

4.25 Subd. 8. **Access.** (a) Public employers shall provide exclusive representatives access to
4.26 members of the bargaining unit, including:

4.27 (1) the right to meet with bargaining unit members on the premises of the public employer
4.28 during the work day to investigate and discuss grievances and other workplace issues;

4.29 (2) the right to conduct worksite meetings during lunch and other breaks, and before
4.30 and after the workday, on the public employer's premises to discuss workplace issues,
4.31 collective negotiations, the administration of collective negotiations agreements, other
4.32 matters related to the duties of an exclusive representative employee organization, and

5.1 internal union matters involving the governance or business of the exclusive representative
5.2 employee organization; and

5.3 (3) the right to meet with newly hired employees, without charge to the pay or leave
5.4 time of the employees, for a minimum of 30 minutes, within 30 calendar days from the date
5.5 of hire, during new employee orientations or, if the employer does not conduct new employee
5.6 orientations, at individual or group meetings.

5.7 (b) Exclusive representative employee organizations shall have the right to use the e-mail
5.8 systems of public employers to communicate with negotiations unit members regarding
5.9 collective negotiations, the administration of collective negotiations agreements, the
5.10 investigation of grievances, other workplace-related complaints and issues, and internal
5.11 union matters involving the governance or business of the union.

5.12 (c) Exclusive representative employee organizations shall have the right to use
5.13 government buildings and other facilities that are owned or leased by government entities
5.14 to conduct meetings with their unit members regarding collective negotiations, the
5.15 administration of collective negotiations agreements, the investigation of grievances, other
5.16 workplace-related complaints and issues, and internal union matters involving the governance
5.17 or business of the union, provided the use does not interfere with governmental operations.
5.18 Meetings conducted in government buildings pursuant to this section shall not be for the
5.19 purpose of supporting or opposing any candidate for partisan political office, or for the
5.20 purpose of distributing literature or information regarding partisan elections. An exclusive
5.21 representative employee organization conducting a meeting in a government building or
5.22 other government facility pursuant to this section may be charged for maintenance, security,
5.23 and other costs related to the use of the government building or facility that would not
5.24 otherwise be incurred by the government entity.

5.25 Sec. 6. Minnesota Statutes 2020, section 179A.07, is amended by adding a subdivision to
5.26 read:

5.27 Subd. 9. **Bargaining unit information.** Within ten calendar days from the date of hire
5.28 of negotiations unit employees, public employers shall provide the following contact
5.29 information to an exclusive representative employee organization in an Excel file format
5.30 or other format agreed to by the exclusive representative employee organization: name, job
5.31 title, worksite location, home address, work telephone number, home and personal cell
5.32 phone numbers on file with the public employer, date of hire, and work e-mail address and
5.33 personal e-mail address on file with the public employer. Every 120 calendar days beginning
5.34 on January 1 following the effective date of this act, public employers shall provide exclusive

6.1 representative employee organizations, in an Excel file or similar format agreed to by the
6.2 employee organization, the following information for all negotiations unit employees: name;
6.3 job title; worksite location; home address; work, home, and personal cell phone numbers;
6.4 date of hire; and work e-mail address and personal e-mail address on file with the public
6.5 employer.

6.6 Sec. 7. Minnesota Statutes 2020, section 572B.17, is amended to read:

6.7 **572B.17 WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY.**

6.8 (a) An arbitrator may issue a subpoena for the attendance of a witness and for the
6.9 production of records and other evidence at any hearing and may administer oaths. A
6.10 subpoena must be served in the manner for service of subpoenas in a civil action and, upon
6.11 motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the
6.12 manner for enforcement of subpoenas in a civil action.

6.13 (b) On request of a party to or a witness in an arbitration proceeding, an arbitrator may
6.14 permit a deposition of any witness to provide testimony at the arbitration hearing, including
6.15 a witness who cannot be subpoenaed for or is unable to attend a hearing, to be taken under
6.16 conditions determined by the arbitrator for use as evidence in order to make the proceeding
6.17 fair, expeditious, and cost-effective.

6.18 (c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in
6.19 the circumstances, taking into account the needs of the parties to the arbitration proceeding
6.20 and other affected persons and the desirability of making the proceeding fair, expeditious,
6.21 and cost-effective.

6.22 (d) If an arbitrator permits discovery under subsection (c), the arbitrator may order a
6.23 party to the arbitration proceeding to comply with the arbitrator's discovery-related orders,
6.24 including the issuance of a subpoena for the attendance of a witness and for the production
6.25 of records and other evidence at a discovery proceeding, and may take action against a party
6.26 to the arbitration proceeding who does not comply to the extent permitted by law as if the
6.27 controversy were the subject of a civil action in this state.

6.28 (e) An arbitrator may issue a protective order to prevent the disclosure of privileged
6.29 information, confidential information, trade secrets, data classified as nonpublic or private
6.30 pursuant to chapter 13, and other information protected from disclosure as if the controversy
6.31 were the subject of a civil action in this state.

6.32 (f) All laws compelling a person under subpoena to testify and all fees for attending a
6.33 judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an

7.1 arbitration proceeding as if the controversy were the subject of a civil action under the laws
7.2 and rules of civil procedure of this state.

7.3 (g) The court may enforce a subpoena or discovery-related order for the attendance of
7.4 a witness within this state and for the production of records and other evidence issued by
7.5 an arbitrator in connection with an arbitration proceeding in another state upon conditions
7.6 determined by the court in order to make the arbitration proceeding fair, expeditious, and
7.7 cost-effective. A subpoena or discovery-related order issued by an arbitrator must be served
7.8 in the manner provided by law for service of subpoenas in a civil action in this state and,
7.9 upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced
7.10 in the manner provided by law for enforcement of subpoenas in a civil action in this state.