

## CHAPTER 640 — S.F.No. 1864

*An act relating to state government; providing for unclassified positions; amending the Administrative Procedure Act; amending Minnesota Statutes 1982, sections 14.03, subdivision 2; 14.10; 14.14, by adding a subdivision; 14.16; 14.23; 14.25; 14.29; 14.30; 14.31; 14.33; 14.35; 14.36; 14.38, subdivision 1; and 14.44; Minnesota Statutes 1983 Supplement, sections 14.07, subdivisions 2 and 4; 14.08; 14.12; 14.14, subdivision 1; 14.15, subdivision 1; 14.22; 14.26; 14.32; 14.45; and 43A.08, subdivision 1a; proposing new law coded in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 1982, section 14.13; and Minnesota Statutes 1983 Supplement, sections 14.07, subdivision 5; 14.17; and 14.21.*

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

Section 1. Minnesota Statutes 1982, section 14.03, subdivision 2, is amended to read:

Subd. 2. **CONTESTED CASE PROCEDURE.** The contested case procedures of the administrative procedure act provided in sections 14.57 to 14.70 do not apply to (a) the Minnesota municipal board, (b) the corrections board, (c) the unemployment insurance program and the social security disability determination program in the department of economic security, (d) the director of mediation services, (e) the workers' compensation division in the department of labor and industry, (f) the workers' compensation court of appeals, (g) the board of pardons, or (h) the public employment relations board.

Sec. 2. Minnesota Statutes 1983 Supplement, section 14.07, subdivision 2, is amended to read:

Subd. 2. **APPROVAL OF FORM.** No agency decision to adopt a rule or ~~temporary~~ emergency rule, including a decision to amend or modify a proposed rule or proposed emergency rule, shall be effective unless the agency has presented the rule to the revisor of statutes and the revisor has certified that its form is approved.

Sec. 3. Minnesota Statutes 1983 Supplement, section 14.07, subdivision 4, is amended to read:

Subd. 4. **INCORPORATIONS BY REFERENCE.** (a) An agency may incorporate by reference into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications and documents which are determined by the revisor of statutes, ~~after consultation with the chief hearing examiner,~~ to be conveniently available to the public. ~~The agency must provide information necessary for the revisor's determination of~~ If the rule incorporates by reference other publications and documents, the rule must contain a statement of incorporation. The statement of incorporation by reference must include the words "incorporated by reference"; must identify by title, author, publisher, and date of publication the standard or material to be

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

incorporated; must state whether the material is subject to frequent change; and must contain a statement of availability. When presented with a rule for certification pursuant to subdivision 2 and this subdivision, the revisor of statutes should indicate in the certification that the rule incorporates by reference text from other publications or documents. If the revisor certifies that the form of a rule is approved, that approval constitutes the revisor's finding that the publication or other document other than one listed by name in this subdivision, and which is incorporated by reference into the rules, is conveniently available to the public.

(b) For the purposes of paragraph (a), "conveniently available to the public" means available for loan or inspection and copying to a person living anywhere in Minnesota through a statewide interlibrary loan system or in a public library without charge except for reasonable copying fees and mailing costs.

Sec. 4. Minnesota Statutes 1983 Supplement, section 14.08, is amended to read:

**14.08 REVISOR OF STATUTE'S APPROVAL OF RULE FORM.**

(a) For the purpose of obtaining the revisor's certificate of approval of the form of a rule prior to filing the rule with the secretary of state, Two copies of the a rule adopted pursuant to the provisions of section 14.26 or 14.32 shall be submitted by the agency to the attorney general. The attorney general shall send one copy of the rule to the revisor on the same day as it is submitted by the agency to the attorney general as required by sections 14.16, under section 14.26, and or 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

~~(b) If the attorney general disapproves the a rule, the agency may modify it. After the chief hearing examiner's review, if any, and the agency shall submit two copies of the modified rule to the attorney general who shall send a copy to the revisor for approval as to form as described in this paragraph (a).~~

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor for approval of the form of the rule. Within five working days after receipt of the rule, the revisor shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of ~~any rules~~ the rule, the revisor's notice to the agency and the attorney general shall indicate the reason

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

for the refusal and specify the modifications necessary so the form of the ~~rules~~ rule will be approved.

Sec. 5. Minnesota Statutes 1982, section 14.10, is amended to read:

**14.10 SOLICITATION OF OUTSIDE INFORMATION.**

When an agency seeks to obtain information or opinions in preparing to propose the adoption, amendment, suspension, or repeal of a rule from sources outside of the agency, the agency shall publish notice of its action in the state register and shall afford all interested persons an opportunity to submit data or views on the subject of concern in writing or orally. Such notice and any written material received by the agency shall become a part of the hearing rulemaking record to be submitted to the attorney general or hearing examiner under ~~section 14.16~~ sections 14.14, 14.26, or 14.32.

Sec. 6. Minnesota Statutes 1983 Supplement, section 14.12, is amended to read:

**14.12 DEADLINE TO PUBLISH NOTICE.**

The agency shall, within 180 days after the effective date of a law requiring rules to be promulgated, unless otherwise specified by law, publish an appropriate notice of intent to adopt a rule in accordance with sections 14.04 14.05 to 14.36. If an agency has not given this notice, it shall report to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor its failure to do so, and the reasons for that failure.

Sec. 7. **[14.131] STATEMENT OF NEED AND REASONABLENESS.**

Subdivision 1. CONTENT OF STATEMENT. Before the agency orders the publication of a rulemaking notice required by section 14.14, subdivision 1a, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief hearing examiner.

Sec. 8. Minnesota Statutes 1983 Supplement, section 14.14, subdivision 1, is amended to read:

Subdivision 1. REQUIRED HEARING. Except as otherwise provided in chapter 14, no rule may be adopted by any agency unless the agency first holds When a public hearing is required under section 14.25 or when an agency decides to proceed directly to a public hearing, the agency shall proceed under the provisions of sections 14.14 to 14.20 and hold a public hearing affording all affected interests an opportunity to participate.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 1982, section 14.14, is amended by adding a subdivision to read:

Subd. 2a. HEARING PROCEDURE. When a hearing is held on a proposed rule, it shall be conducted by a hearing examiner assigned by the chief hearing examiner. The hearing examiner shall ensure that all persons involved in the rule hearing are treated fairly and impartially. The agency shall submit into the record the jurisdictional documents, including the statement of need and reasonableness, and any written exhibits in support of the proposed rule. The agency may also present additional oral evidence. Interested persons may present written and oral evidence. The hearing examiner shall allow questioning of agency representatives or witnesses, or of interested persons making oral statements, in order to explain the purpose or intended operation of a proposed rule, or a suggested modification, or for other purposes if material to the evaluation or formulation of the proposed rule. The hearing examiner may limit repetitive or immaterial oral statements and questioning.

Sec. 10. Minnesota Statutes 1983 Supplement, section 14.15, subdivision 1, is amended to read:

Subdivision 1. **TIME OF PREPARATION.** After allowing written material to be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner, the hearing examiner assigned to the hearing shall write a report as provided for in section 14.50. Prior to writing the report, the hearing examiner shall allow the agency and interested persons three business days after the closing of the hearing record submission period ends to respond in writing to any new information submitted. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. The agency may not submit Additional information evidence may not be submitted during this three-day period. The written acceptance of other amendments responses shall be added to the hearing rulemaking record.

Sec. 11. Minnesota Statutes 1982, section 14.16, is amended to read:

**14.16 ADOPTION OF RULE; MODIFICATIONS OF PROPOSED RULE; SUBMISSION TO ATTORNEY GENERAL CHIEF HEARING EXAMINER; FILING OF RULE.**

If, after completion of the hearing examiner's report, the agency adopts the rule as recommended by the hearing examiner, the rule shall be submitted with the complete hearing record to the attorney general, who shall review the rule as to its legality and review its form to the extent the form relates to legality.

If the agency modifies the rule in a manner other than that recommended by the hearing examiner, it shall submit the rule as originally proposed and as modified with the complete hearing record to the chief hearing examiner for a

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

review of the modifications prior to adopting the modified rule and submitting it to the attorney general for review.

Subdivision 1. REVIEW OF MODIFICATIONS. If the report of the hearing examiner finds no defects, the agency may proceed to adopt the rule. After receipt of the hearing examiner's report, if the agency makes any modifications to the rule other than those recommended by the hearing examiner, it must return the rule to the chief hearing examiner for a review on the issue of substantial change. If the chief hearing examiner determines that the modified rule is substantially different from that which was originally proposed, the chief hearing examiner shall advise the agency of actions which will correct the defects. The agency shall not adopt the modified rule until the chief hearing examiner determines that the defects have been corrected.

The agency shall give notice to all persons who requested to be informed that the hearing record rule has been submitted to the attorney general adopted and filed with the secretary of state. This notice shall be given on the same day that the record is submitted rule is filed.

Subd. 2. CORRECTION OF DEFECTS. If the chief hearing examiner approves the hearing examiner's finding of a defect and advises the agency of actions which will correct the defect pursuant to subdivision 3 of section 14.15, the agency must either withdraw the rule or make the modifications required. The agency shall then resubmit the rule to the chief hearing examiner for a determination as to whether the defects have been corrected.

Subd. 3. FILING. After the agency has adopted the rule, the agency shall promptly file two copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule filed to the revisor of statutes.

Sec. 12. Minnesota Statutes 1983 Supplement, section 14.22, is amended to read:

#### 14.22 NOTICE OF PROPOSED ADOPTION OF RULES.

Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The notice shall be given by publication in the State Register and by United States mail to persons who have registered their names with the agency pursuant to section 14.14, subdivision 1a. The mailed notice shall include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and an announcement that a free copy of the proposed rule is available on request from the agency. The notice in the State Register shall include the proposed rule or the amended rule in the form required by the revisor under section 14.07, and a citation to the most specific statutory authority for the proposed rule. When an entire rule is proposed to be repealed, the notice need only state that fact,

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

giving the citation to the rule to be repealed in the notice. The notice shall include a statement advising the public:

(1) that they have 30 days in which to submit comment ~~on~~ in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that ~~no public hearing will be held unless seven or more persons make a written request for a hearing within the 30 day comment period~~ each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;

(4) of the manner in which persons shall request a public hearing on rules proposed pursuant to sections 14.21 to 14.28 the proposed rule; and

(5) that any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed;

(4) (6) that the proposed rule may be modified if the modifications are supported by the data and views submitted; and

(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the attorney general for review will be mailed to any person requesting to receive the notice.

Sec. 13. Minnesota Statutes 1982, section 14.23, is amended to read:

#### 14.23 STATEMENT OF NEED AND REASONABLENESS.

Before the date of the section 14.22 notice, the agency shall prepare a statement of need and reasonableness which shall be available to the public. For at least 30 days following the notice, the agency shall afford all interested persons an opportunity to ~~object to the lack of request~~ request a public hearing and to submit data and views on the proposed rule in writing.

Sec. 14. Minnesota Statutes 1982, section 14.25, is amended to read:

#### 14.25 OBJECTIONS TO PROPOSED RULE PUBLIC HEARING REQUIRED.

If, during the 30 day period allowed for comment, ~~seven~~ 25 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections ~~14.13~~ 14.14 to 14.20. ~~If a hearing is required, and~~ a notice of the public hearing shall be published in the state register. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the state register pages where the text appears.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 15. Minnesota Statutes 1983 Supplement, section 14.26, is amended to read:

**14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO ATTORNEY GENERAL.**

If no hearing is required, the agency shall submit to the attorney general the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the attorney general. This notice shall be given on the same day that the record is submitted. If the proposed rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials shall be submitted to the attorney general within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency shall report its failure to adopt the rules and the reasons for that failure to the legislative commission to review administrative rules, other appropriate legislative committees, and the governor.

Even if the 180-day period expires while the attorney general reviews the rule, if the attorney general rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections ~~14.13~~ 14.14 to ~~14.20~~, ~~14.21~~ to 14.28, or 14.29 to 14.36.

The attorney general shall approve or disapprove the rule as to its legality and its form to the extent the form relates to legality, including the issue of substantial change, and determine whether the agency has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule within 14 days. If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule to the revisor of statutes. If the rule is disapproved, the attorney general shall state in writing the reasons and make recommendations to overcome the deficiencies, and the rule shall not be filed in the office of the secretary of state, nor published until the deficiencies have been overcome. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief hearing examiner, the legislative commission to review administrative rules, and to the revisor of statutes.

Sec. 16. Minnesota Statutes 1982, section 14.29, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**14.29 AUTHORITY FOR USE OF TEMPORARY EMERGENCY RULES PROCEDURE; EXPIRATION OF AUTHORITY.**

Subdivision 1. When an agency is directed by statute, federal law or court order to adopt, amend, suspend or repeal a rule in a manner that does not allow for compliance with sections ~~14.13~~ 14.14 to 14.28, or if an agency is expressly required or authorized by statute to adopt temporary emergency rules, the agency shall adopt temporary emergency rules in accordance with sections 14.29 to 14.36.

Subd. 2. Unless an agency is directed by federal law or court order to adopt, amend, suspend, or repeal a rule in a manner that does not allow for compliance with sections 14.14 to 14.28, no agency may adopt an emergency rule later than 180 days after the effective date of the statutory authority, except as provided in subdivision 3. If emergency rules are not adopted within the time allowed, the authority for the rules expires. The time limit of this section does not include any days used for review by the attorney general. If the 180-day period expires while the attorney general is reviewing the rule and the attorney general disapproves the rule, the agency may resubmit the rule to the attorney general after taking corrective action. The resubmission must occur within five working days after the agency receives written notice of disapproval. If the rule is again disapproved by the attorney general, it is withdrawn.

Subd. 3. Any agency which is authorized to issue bonds to obtain funds for implementation of its programs and which is authorized by other law to adopt temporary rules governing those programs may continue to adopt those rules as emergency rules without regard to the 180-day time limits specified in subdivision 2 or section 30.

Sec. 17. Minnesota Statutes 1982, section 14.30, is amended to read:

**14.30 NOTICE OF PROPOSED ADOPTION OF EMERGENCY RULE.**

The proposed temporary emergency rule shall be published with a notice of intent to adopt temporary emergency rules in the state register, and the same notice shall be mailed to all persons registered with the agency to receive notice of any rulemaking proceedings. The notice shall include a statement advising the public that a free copy of the proposed rule is available on request from the agency and that notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive the notice. For at least 20 25 days after publication the agency shall afford all interested persons an opportunity to submit data and views on the proposed temporary emergency rule in writing.

Sec. 18. Minnesota Statutes 1982, section 14.31, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



**14.31 MODIFICATIONS OF PROPOSED EMERGENCY RULE.**

The proposed temporary emergency rule may be modified if the modifications are supported by the data and views submitted to the agency.

Sec. 19. Minnesota Statutes 1983 Supplement, section 14.32, is amended to read:

**14.32 SUBMISSION OF PROPOSED EMERGENCY RULE TO ATTORNEY GENERAL.**

The agency shall submit to the attorney general the proposed temporary emergency rule as published, with any modifications. On the same day that it is submitted, the agency shall mail notice of the submission to all persons who requested to be informed that the proposed emergency rule has been submitted to the attorney general. If the proposed emergency rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed emergency rule, as modified, is available upon request from the agency. The attorney general shall review the proposed temporary emergency rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed temporary emergency rule and any modifications within five working days on the tenth working day following the date of receipt of the proposed emergency rule from the agency. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief hearing examiner, the legislative commission to review administrative rules, and to the revisor of statutes.

Sec. 20. Minnesota Statutes 1982, section 14.33, is amended to read:

**14.33 EFFECTIVE DATE OF EMERGENCY RULE.**

The temporary emergency rule shall take effect upon five working days after approval of by the attorney general. The attorney general shall file two copies of the approved emergency rule with the secretary of state. The secretary of state shall forward one copy of each approved and filed temporary emergency rule to the revisor of statutes. Failure of the attorney general to approve or disapprove a proposed emergency rule within five ten working days is approval.

Sec. 21. Minnesota Statutes 1982, section 14.35, is amended to read:

**14.35 EFFECTIVE PERIOD OF EMERGENCY RULE.**

Temporary Emergency rules adopted under sections 14.29 to 14.36 shall be effective for the period stated in the notice of intent to adopt temporary emergency rules which may not be longer than 180 days. The temporary emergency rules may be continued in effect for an additional period of up to 180 days if the agency gives notice of continuation by publishing notice in the state register and mailing the same notice to all persons registered with the agency to receive notice of any rulemaking proceedings. The continuation shall not be

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

effective until these notices have been mailed. No temporary emergency rule shall remain in effect on a date 361 days after its original effective date. The temporary emergency rules may not be continued in effect after 360 days without following the procedure of either sections ~~14.13~~ 14.14 to 14.20 or sections ~~14.21~~ to 14.28.

Sec. 22. Minnesota Statutes 1982, section 14.36, is amended to read:

**14.36 APPROVAL OF FORM OF EMERGENCY RULE.**

No approved temporary emergency rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has certified that the emergency rule's form is approved.

Sec. 23. [**14.365**] **OFFICIAL RULEMAKING RECORD.**

The agency shall maintain the official rulemaking record for every rule adopted pursuant to sections 14.05 to 14.36. The record shall be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record shall contain:

- (1) copies of all publications in the State Register pertaining to the rule;
- (2) all written petitions, requests, submissions, or comments received by the agency, the hearing examiner, or the attorney general pertaining to the rule;
- (3) the statement of need and reasonableness for the rule, if any;
- (4) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;
- (5) the report of the hearing examiner, if any;
- (6) the rule in the form last submitted to the hearing examiner or first submitted to the attorney general;
- (7) the attorney general's written statement of required modifications and of approval or disapproval, if any;
- (8) any documents required by applicable rules of the office of administrative hearings or of the attorney general;
- (9) the agency's order adopting the rule;
- (10) the revisor's certificate approving the form of the rule; and
- (11) a copy of the adopted rule as filed with the secretary of state.

Sec. 24. Minnesota Statutes 1982, section 14.38, subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **ORIGINAL RULES.** Every rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, which is ~~approved by the attorney general and~~ filed in the office of the secretary of state as provided in sections 14.05 to 14.36 shall have the force and effect of law five working days after its notice of adoption is published in the state register unless a ~~later~~ different date is required by statute or a later date is specified in the rule. The secretary of state shall keep a permanent record of rules filed with that office open to public inspection.

Sec. 25. **[14.385] EFFECT OF NONPUBLICATION OF EXEMPT RULES.**

No rule, as defined in section 14.02, subdivision 4, which is exempt from the rulemaking provisions of this chapter has the force and effect of law as of January 1, 1985, unless prior to that date it has been submitted to the revisor for publication in Minnesota Rules.

The revisor has the same editorial powers over these rules as the revisor has over nonexempt rules.

Sec. 26. Minnesota Statutes 1982, section 14.44, is amended to read:

**14.44 DETERMINATION OF VALIDITY OF RULE.**

The validity of any rule may be determined upon the petition for a declaratory judgment thereon, addressed to the ~~district court where the principal office of the agency is located~~ court of appeals, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question, and whether or not the agency has commenced an action against the petitioner to enforce the rule.

Sec. 27. Minnesota Statutes 1983 Supplement, section 14.45, is amended to read:

**14.45 RULE DECLARED INVALID.**

In proceedings under section 14.44, the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rulemaking procedures. Any party to proceedings under section 14.44, including the agency, may appeal an adverse decision of the ~~district court of appeals~~ to the supreme court of appeals as in other civil cases.

Sec. 28. **EXTENSION OF TEMPORARY RULE AUTHORITY.**

Notwithstanding sections 16 and 30, the commissioners of health and public welfare may amend the temporary rules authorized by Laws of 1983,

Changes or additions are indicated by underline, deletions by strikeout.

chapter 199 and the commissioner of welfare may amend the temporary rules authorized by Laws of 1983, chapter 312 throughout the period these temporary rules remain in effect by following the temporary rule procedure under chapter 14. The temporary rules shall not remain in effect beyond the periods authorized in Laws 1983, chapters 199 and 312.

Sec. 29. Minnesota Statutes 1983 Supplement, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **ADDITIONAL UNCLASSIFIED POSITIONS.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; economic security; education; employee relations; energy and economic development; finance; health; human rights; labor and industry; natural resources; office of administrative hearings; public safety; public service; public welfare; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; the state board of investment; the offices of the secretary of state, state auditor, and state treasurer; and the state board of vocational technical education.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

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

(b) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

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

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

(e) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

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

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

Sec. 30. **EXPIRATION OF TEMPORARY RULEMAKING AUTHORITY.**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Except as provided in section 14.29, subdivision 3, no agency may adopt an emergency or temporary rule pursuant to any temporary rulemaking authority granted in a statute enacted prior to March 1, 1984, later than 180 days after the effective date of this section.

**Sec. 31. TERMS CONSTRUED.**

All grants of temporary rulemaking authority made prior to or during the 1984 legislative session shall be construed to be grants of emergency rulemaking authority.

**Sec. 32. INSTRUCTION TO THE REVISOR.**

The revisor of statutes shall change the term "temporary rule," "temporary rulemaking," or similar terms to "emergency rule," "emergency rulemaking," or similar terms wherever those terms appear in Minnesota Statutes 1984.

The revisor of statutes shall change the term "hearing examiner" or similar terms to "administrative law judge" or similar terms and the term "chief hearing examiner" or similar terms to "chief administrative law judge" or similar terms wherever those terms appear in Minnesota Statutes 1984 with reference to personnel of the office of administrative hearings.

**Sec. 33. REPEALER.**

Minnesota Statutes 1982, section 14.13; and Minnesota Statutes 1983 Supplement, sections 14.07, subdivision 5; 14.17; and 14.21, are repealed.

**Sec. 34. EFFECTIVE DATE, APPLICATION.**

Sections 1 to 25, 28, and 30 to 33 are effective the day following final enactment and shall apply to all rulemaking proceedings for which the notice under section 14.14, subdivision 1a, 14.22, or 14.30 is thereafter published. Sections 26 and 27 are effective the day following final enactment.

Approved May 2, 1984

---

**CHAPTER 641 — H.F.No. 2098**

*An act relating to public welfare; requiring financial statements by providers of continuing care facilities; allowing residents to form associations; revising procedures for determining operating cost payment rates for nursing homes; providing for a study; limiting control of waived services; regulating continuing care facilities; appropriating money; amending Minnesota Statutes 1982, sections 62D.12, subdivision 1; 62D.17, subdivision 4;*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.