

Sec. 4. DURATION.

Section 1 is effective until a memorandum of understanding is agreed to by the exclusive representative of the professional bargaining unit and Minnesota state colleges and universities, or until a successor agreement is negotiated by the parties.

Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective the day following final enactment.

Presented to the governor March 23, 1996

Signed by the governor March 26, 1996, 10:38 a.m.

CHAPTER 374—S.F.No. 2552

An act relating to workers' compensation; modifying provisions governing calculation of premiums; modifying provisions relating to independent contractors; exempting certain rules from expiration; changing terms of a pilot program; making technical changes; amending Minnesota Statutes 1995 Supplement, sections 79.53, subdivision 1; 79.55, subdivision 5; 176.136, subdivision 1a; 176.1812, subdivisions 1 and 6; and 176.261; proposing coding for new law in Minnesota Statutes, chapter 176.

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

Section 1. Minnesota Statutes 1995 Supplement, section 79.53, subdivision 1, is amended to read:

Subdivision 1. **METHOD OF CALCULATION.** Each insurer shall establish premiums to be paid by an employer according to its filed rates and rating plan as follows:

Rates shall be applied to an exposure base to yield a base premium which may be further ~~increased or decreased up to 25 percent~~ modified by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium if the increase or decrease is not unfairly discriminatory. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.

Sec. 2. Minnesota Statutes 1995 Supplement, section 79.55, subdivision 5, is amended to read:

Subd. 5. **DISCOUNTS PERMITTED.** An insurer may offer a ~~scheduled credit or debit to discount from a manual premium of up to 25 percent~~ if the premium otherwise complies with this section. The commissioner shall not by rule, or otherwise, prohibit a credit or discount from a manual premium solely because it is greater than a certain fixed percentage of the premium.

Sec. 3. [176.042] INDEPENDENT CONTRACTORS.

Subdivision 1. GENERAL RULE; ARE EMPLOYEES. Except as provided in subdivision 2, every independent contractor doing commercial or residential building

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construction or improvements in the public or private sector is, for the purpose of this chapter, an employee of any employer under this chapter for whom the independent contractor is performing service in the course of the trade, business, profession, or occupation of that employer at the time of the injury.

Subd. 2. **EXCEPTION.** An independent contractor, as described in subdivision 1, is not an employee of an employer for whom the independent contractor performs work or services if the independent contractor meets all of the following conditions:

(1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;

(2) holds or has applied for a federal employer identification number;

(3) operates under contracts to perform specific services or work for specific amounts of money and under which the independent contractor controls the means of performing the services or work;

(4) incurs the main expenses related to the service or work that the independent contractor performs under contract;

(5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;

(6) receives compensation for work or service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;

(7) may realize a profit or suffer a loss under contracts to perform work or service;

(8) has continuing or recurring business liabilities or obligations; and

(9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

Sec. 4. Minnesota Statutes 1995 Supplement, section 176.136, subdivision 1a, is amended to read:

Subd. 1a. **RELATIVE VALUE FEE SCHEDULE.** The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1991, shall remain in effect until the commissioner adopts a new schedule by permanent rule. The commissioner shall adopt permanent rules regulating fees allowable for medical, chiropractic, podiatric, surgical, and other health care provider treatment or service, including those provided to hospital outpatients, by implementing a relative value fee schedule to be effective on October 1, 1993. The commissioner may adopt by reference the relative value fee schedule adopted for the federal Medicare program or a relative value fee schedule adopted by other federal or state agencies. The relative value fee schedule shall contain reasonable classifications including, but not limited to, classifications that differentiate among health care provider disciplines. The conversion factors for the original relative value fee schedule must reasonably reflect a 15 percent overall reduction from the medical fee schedule most recently in effect. The reduction need not be applied equally to all treatment or services, but must represent a gross 15 percent reduction.

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After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1 by no more than the percentage change computed under section 176.645, but without the annual cap provided by that section. The commissioner shall annually give notice in the State Register of the adjusted conversion factors and may also give annual notice of any additions, deletions, or changes to the relative value units or service codes adopted by the federal Medicare program. The relative value units may be statistically adjusted in the same manner as for the original workers' compensation relative value fee schedule. The notices of the adjusted conversion factors and additions, deletions, or changes to the relative value units and service codes shall be in lieu of the requirements of chapter 14. The commissioner shall follow the requirements of section 14.386, paragraph (a). The annual adjustments to the conversion factors and the medical fee schedules adopted pursuant to this section, including all previous fee schedules, are not subject to expiration under section 14.387.

Sec. 5. Minnesota Statutes 1995 Supplement, section 176.1812, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** Upon appropriate filing, the commissioner, compensation judge, workers' compensation court of appeals, and courts shall recognize as valid and binding a provision in a collective bargaining agreement between a qualified employer or qualified groups of employers engaged in construction, construction maintenance, and related activities and the certified and exclusive representative of its employees to establish certain obligations and procedures relating to workers' compensation. For purposes of this section, "qualified employer" means any self-insured employer, any employer, through itself or any affiliate as defined in section 60D.15, subdivision 2, who is responsible for the first \$100,000 or more of any claim, or a private employer developing or projecting an annual workers' compensation premium, in Minnesota, of \$250,000 or more. For purposes of this section, a "qualified group of employers" means a group of private employers engaged in workers' compensation group self-insurance complying with section 79A.03, subdivision 6 chapter 79A, or a group of private employers who purchase workers' compensation insurance as a group, which develops or projects annual workers' compensation insurance premiums of \$2,000,000 or more. This agreement must be limited to, but need not include, all of the following:

(a) an alternative dispute resolution system to supplement, modify, or replace the procedural or dispute resolution provisions of this chapter. The system may include mediation, arbitration, or other dispute resolution proceedings, the results of which may be final and binding upon the parties. A system of arbitration shall provide that the decision of the arbiter is subject to review either by the workers' compensation court of appeals in the same manner as an award or order of a compensation judge or, in lieu of review by the workers' compensation court of appeals, by the office of administrative hearings, by the district court, by the Minnesota court of appeals, or by the supreme court in the same manner as the workers' compensation court of appeals and may provide that any arbiter's award disapproved by a court be referred back to the arbiter for reconsideration and possible modification;

(b) an agreed list of providers of medical treatment that may be the exclusive source of all medical and related treatment provided under this chapter which need not be certified under section 176.1351;

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(c) the use of a limited list of impartial physicians to conduct independent medical examinations;

(d) the creation of a light duty, modified job, or return to work program;

(e) the use of a limited list of individuals and companies for the establishment of vocational rehabilitation or retraining programs which list is not subject to the requirements of section 176.102;

(f) the establishment of safety committees and safety procedures; or

(g) the adoption of a 24-hour health care coverage plan if a 24-hour plan pilot project is authorized by law, according to the terms and conditions authorized by that law.

Sec. 6. Minnesota Statutes 1995 Supplement, section 176.1812, subdivision 6, is amended to read:

Subd. 6. **PILOT PROGRAM.** The commissioner shall establish a pilot program ending December 31, 2001, in which up to ten private and up to ten public employers shall be authorized to enter into valid agreements under this section with their employees. The agreements shall be recognized and enforced as provided by this section. Employers shall participate in the pilot program through collectively bargained agreements with the certified and exclusive representatives of their employees and without regard to the dollar insurance premium limitations in subdivision 1. A group of employers engaged in workers' compensation group self-insurance complying with chapter 79A, or a group of employers who purchase workers' compensation insurance as a group, may not participate in any pilot program under this subdivision.

Sec. 7. Minnesota Statutes 1995 Supplement, section 176.261, is amended to read:

176.261 EMPLOYEE OF COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY MAY ACT FOR AND ADVISE A PARTY TO A PROCEEDING.

When requested by an employer or an employee or an employee's dependent, the commissioner of the department of labor and industry may designate one or more of the division employees to advise that party of rights under this chapter, and as far as possible to assist in adjusting differences between the parties. The person so designated may appear in person in any proceedings under this chapter as the representative or adviser of the party. In such case, the party need not be represented by an attorney at law.

Prior to advising an employee or employer to seek assistance outside of the department, the department must refer employers and employees seeking advice or requesting assistance in resolving a dispute to an attorney or rehabilitation and medical specialist employed by the department other technical, paraprofessional, or professional workers' compensation division employee, whichever is appropriate.

The department must make efforts to settle problems of employees and employers by contacting third parties, including attorneys, insurers, and health care providers, on behalf of employers and employees and using the department's persuasion to settle issues quickly and cooperatively. The obligation to make efforts to settle problems exists whether or not a formal claim has been filed with the department.

Sec. 8. EFFECTIVE DATE.

New language is indicated by underline, deletions by ~~strikeout~~.

Sections 1 and 2 are effective retroactive to January 1, 1996. Section 3 is effective July 1, 1996. Sections 4 to 7 are effective the day following final enactment.

Presented to the governor March 23, 1996

Signed by the governor March 26, 1996, 10:42 a.m.

CHAPTER 375—S.F.No. 1086

VETOED

CHAPTER 376—H.F.No. 2625

An act relating to the city of Baxter; allowing the city of Baxter to expand its public utilities commission to five members.

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

Section 1. UTILITIES COMMISSION MAY BE EXPANDED TO FIVE.

Notwithstanding Minnesota Statutes, section 412.341, the city of Baxter may expand its public utilities commission from three to five members and one of the five may also be a member of the Baxter city council. If expanded, the first term of the holder of the fourth seat is two years and the first term of the holder of the fifth seat is one year. Thereafter, the terms of the holders of the fourth and fifth seats are three years.

Presented to the governor March 23, 1996

Signed by the governor March 26, 1996, 10:27 a.m.

CHAPTER 377—S.F.No. 2342

An act relating to motor carriers; providing for deregulation of motor carriers of property; establishing a carrier registration system; allowing relief from safety regulations during declared emergency; creating exemptions from certain workplace drug and alcohol testing; requiring alcohol testing; changing the definition of warehouse operator; amending Minnesota Statutes 1994, sections 221.011, subdivision 15, and by adding a subdivision; 221.031, by adding a subdivision; 221.605, subdivision 1; and 231.01, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 221.

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

Section 1. Minnesota Statutes 1994, section 221.011, subdivision 15, is amended to read:

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