

(1) the extent to which the department of human services has been successful in maintaining a merit-based human resources system in the absence of the traditional civil service rules and procedures;

(2) the extent to which the project's projected outcomes were achieved;

(3) the satisfaction of managers, supervisors, and exclusive representatives of employees with the changes; and

(4) the extent of complaints or problems arising under the new system.

The department of human services must report to the legislature by January 15, 1999, January 15, 2000, and January 15, 2001, on the progress and results of the project.

Sec. 19. **STUDY OF STATE HIRING OPTIONS.**

The commissioner of human services shall study and report to the legislature by January 15, 1998, with recommendations to expand employment opportunities for public assistance recipients in state agencies and institutions of higher education. The report may include recommendations on:

(1) giving qualified applicants who are recipients of public assistance preference in hiring; and

(2) other recommendations developed by the commissioner in consultation with other state agencies and institutions of higher education.

Sec. 20. **REPEALER.**

Minnesota Statutes 1996, section 43A.182, and Laws 1995, chapter 248, article 10, section 12, are repealed.

Presented to the governor May 5, 1997

Signed by the governor May 6, 1997, 2:35 p.m.

CHAPTER 98—S.F.No. 351

An act relating to administrative rules; assigning responsibility for legislative review of administrative rules to the legislative coordinating commission; abolishing authority to suspend rules without enactment of a statute; amending Minnesota Statutes 1996, sections 3.841; 3.842, subdivisions 2 and 4a; 3.843; 14.05, subdivision 5; 14.131; 14.14, subdivision 1a; 14.15, subdivision 4; 14.18, subdivision 1; 14.19; 14.22, subdivision 1; 14.225; 14.23; 14.26, subdivisions 1 and 3; and 14.47, subdivision 6; repealing Minnesota Statutes 1996, sections 3.842, subdivisions 4, 5, 6, and 7; 3.844; 3.845; and 15.065.

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

Section 1. Minnesota Statutes 1996, section 3.841, is amended to read:

3.841 **LEGISLATIVE COORDINATING COMMISSION TO REVIEW ADMINISTRATIVE RULES; ~~COMPOSITION; MEETINGS.~~**

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

A For purposes of sections 3.842 and 3.843, "commission" means the legislative coordinating commission to review administrative rules, consisting of five senators appointed by the subcommittee on committees of the committee on rules and administration of the senate and five representatives appointed by the speaker of the house of representatives shall be appointed within 30 days after the convening of the legislative session. Its members must include the chair or the chair's designee of the committees in each body having jurisdiction over administrative rules. The commission shall meet at the call of its chair or upon a call signed by two of its members or signed by five members of the legislature. The office of chair of the legislative commission shall alternate between the two houses of the legislature every two years or a legislative commission or subcommittee established by the coordinating commission under section 3.305, subdivision 6, to exercise the powers and discharge the duties of the coordinating commission under sections 3.842 and 3.843 or other law requiring action by the coordinating commission on matters relating to administrative rules.

Sec. 2. Minnesota Statutes 1996, section 3.842, subdivision 2, is amended to read:

Subd. 2. **JURISDICTION.** The jurisdiction of the commission includes all rules as defined in section 14.02, subdivision 4. The commission also has jurisdiction of rules which are filed with the secretary of state in accordance with sections 14.38, subdivisions 5, 6, 7, 8, 9, and 11; 14.386; and 14.388.

The commission may periodically review statutory exemptions to the rulemaking provisions of this chapter.

Sec. 3. Minnesota Statutes 1996, section 3.842, subdivision 4a, is amended to read:

Subd. 4a. **OBJECTIONS TO RULES.** (a) If the legislative commission to review administrative rules objects to all or some portion of a rule because the commission considers it to be beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (c), the commission may file that objection in the office of the secretary of state. The filed objection must contain a concise statement of the commission's reasons for its action. An objection to a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (c), may not be filed before the rule is adopted.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall transmit a certified copy of it to the agency issuing the rule in question and to the revisor of statutes. The secretary of state shall also maintain a permanent register open to public inspection of all objections by the commission.

(c) The legislative commission to review administrative rules shall publish and index an objection filed under this section in the next issue of the State Register. The revisor of statutes shall indicate its the existence of the objection adjacent to the rule in question when that rule is published in Minnesota Rules.

(d) Within 14 days after the filing of an objection by the commission to a rule, the issuing agency shall respond in writing to the commission. After receipt of the response, the commission may withdraw or modify its objection.

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(e) After the filing of an objection by the commission that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or portion of the rule objected to is valid.

(f) The failure of the commission to object to a rule is not an implied legislative authorization of its validity.

(g) Pursuant to In accordance with sections 14.44 and 14.45, the commission may petition for a declaratory judgment to determine the validity of any a rule objected to by the commission. ~~This~~ The action must be started within two years after an objection is filed in the office of the secretary of state.

(h) The commission may intervene in litigation arising from agency action. For purposes of this paragraph, agency action means the whole or part of a rule, or the failure to issue a rule.

Sec. 4. Minnesota Statutes 1996, section 3.843, is amended to read:

3.843 PUBLIC HEARINGS BY STATE AGENCIES.

By a vote of a majority of its members, the commission may request any agency issuing rules to hold a public hearing in respect to recommendations made pursuant to under section 3.842, including recommendations made by the commission to promote adequate and proper rules by that agency and recommendations contained in the commission's biennial report. The agency shall give notice as provided in section 14.14, subdivision 1, of a hearing thereon under this section, to be conducted in accordance with sections 14.05 to 14.28. The hearing shall must be held not more than 60 days after receipt of the request or within any other longer time period specified by the commission in the request.

Sec. 5. Minnesota Statutes 1996, section 14.05, subdivision 5, is amended to read:

Subd. 5. **REVIEW AND REPEAL OF RULES.** By December 1 of each year, an agency shall submit a list of all the rules of the agency to the governor, the legislative coordinating commission to review administrative rules, and the revisor of statutes. The list must identify any rules that are obsolete and should be repealed. The list must also include an explanation of why the rule is obsolete and the agency's timetable for repeal.

Sec. 6. Minnesota Statutes 1996, section 14.131, is amended to read:

14.131 STATEMENT OF NEED AND REASONABLENESS.

Before the agency orders the publication of a rulemaking notice required by section 14.14, subdivision 1a, the agency ~~must~~ shall 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 administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

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(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(5) the probable costs of complying with the proposed rule; and

(6) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

For rules setting, adjusting, or establishing regulatory, licensure, or other charges for goods and services, the statement of need and reasonableness must include the comments and recommendations of the commissioner of finance and must address any fiscal and policy concerns raised during the review process, as required by section 16A.1285.

The statement must also describe the agency's efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The agency shall send a copy of the statement of need and reasonableness to the ~~legislative commission to review administrative rules~~ reference library when it becomes available for public review.

Sec. 7. Minnesota Statutes 1996, section 14.14, subdivision 1a, is amended to read:

Subd. 1a. **NOTICE OF RULE HEARING.** (a) Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. The agency may inquire as to whether those persons on the list wish to maintain their names ~~thereon~~ on it and may remove names for which there is a negative reply or no reply within 60 days. The agency shall, at least 30 days ~~prior to~~ before the date set for the hearing, give notice of its intention to adopt rules by United States mail to all persons on its list, and by publication in the State Register. The mailed notice ~~shall~~ must include either a copy of the proposed rule or a description of ~~the~~ its nature and effect of ~~the~~ the proposed rule and an announcement that a free copy of the ~~proposed~~ proposed rule is available on request from the agency. Each agency may, at its own discretion, also ~~contact~~ notify persons not on its list who may be affected by the rule being proposed. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register must include the proposed rule or an amended rule in the form required by the revisor under section 14.07, together with a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that a rule has been adopted, and other information as required by law or rule. When an entire rule is proposed to be repealed, the agency need only publish that fact, giving the citation to the rule to be repealed in the notice.

(b) ~~The legislative commission to review administrative rules~~ chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

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- (1) knowledge of the rule is likely to be important to only a small class of persons;
- (2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and
- (3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 8. Minnesota Statutes 1996, section 14.15, subdivision 4, is amended to read:

Subd. 4. **NEED OR REASONABLENESS NOT ESTABLISHED.** If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission to review administrative rules for the commission's advice and comment. The agency shall may not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to wait for the commission's advice for more than 60 days after the commission has received the agency's submission.

Sec. 9. Minnesota Statutes 1996, section 14.18, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** A rule is effective after it has been subjected to all requirements described in sections 14.131 to 14.20 and five working days after the notice of adoption is published in the State Register unless a later date is required by law or specified in the rule. If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the State Register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the portions of the adopted rule which that differ from the proposed rule shall must be included in the notice of adoption together with a citation to the prior State Register publication of the remainder of the proposed rule. The nature of the modifications must be clear to a reasonable person when the notice of adoption is considered together with the State Register publication of the proposed rule, except that modifications may also be made which that comply with the form requirements of section 14.07, subdivision 7.

If the agency omitted from the notice of proposed rule adoption the text of the proposed rule, as permitted by section 14.14, subdivision 1a, paragraph (b), the legislative commission to review administrative rules chief administrative law judge may provide that the notice of the adopted rule need not include the text of any changes from the proposed rule. However, the notice of adoption must state in detail the substance of the changes made from the proposed rule, and must state that a free copy of that the portion of the adopted rule that was the subject of the rulemaking proceeding, not including any material adopted by reference as permitted by section 14.07, is available upon request to the agency.

Sec. 10. Minnesota Statutes 1996, section 14.19, is amended to read:

14.19 DEADLINE TO COMPLETE RULEMAKING.

The agency shall, Within 180 days after issuance of the administrative law judge's report, the agency shall submit its notice of adoption, amendment, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register

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within 180 days, the rule is automatically withdrawn. The agency ~~shall~~ may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28. It shall report to the legislative coordinating ~~commission~~ to review administrative rules, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include any days used for review by the chief administrative law judge or the legislative commission to review administrative rules if the review is required by law.

Sec. 11. Minnesota Statutes 1996, section 14.22, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS.** (a) 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~~ must 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 under section 14.14, subdivision 1a. The mailed notice ~~shall~~ must include either a copy of the proposed rule or a description of the its 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. Each agency may, at its own discretion, also ~~contact~~ notify persons not on its list who may be affected by the rule being proposed. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register ~~shall~~ must include the proposed rule or the amended rule in the form required by the revisor under section 14.07, a citation to the most specific statutory authority for the proposed rule, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that a rule has been submitted to the chief administrative law judge, and other information as required by law or rule. When an entire rule is proposed to be repealed, the notice need only state that fact, giving the citation to the rule to be repealed in the notice. The notice ~~shall~~ must include a statement advising the public:

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

(2) that 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~~ must request a public hearing on the proposed rule;

(5) of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to propose any change desired;

(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 chief administrative law judge for review will be mailed to any person requesting to receive the notice.

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In connection with the statements required in clauses (1) and (3), the notice must also include the date on which the 30-day comment period ends.

(b) ~~The legislative commission to review administrative rules~~ chief administrative law judge may authorize an agency to omit from the notice of intent to adopt the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

- (1) knowledge of the rule is likely to be important to only a small class of persons;
- (2) the notice of intent to adopt states that a free copy of the entire rule is available upon request to the agency; and
- (3) the notice of intent to adopt states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 12. Minnesota Statutes 1996, section 14.225, is amended to read:

14.225 DUAL NOTICE RULES.

~~The attorney general, after consultation with the office of chief administrative hearings,~~ law judge shall adopt rules prescribing the form and content of the notice authorized by section 14.22, subdivision 2. The rules may provide for a consolidated notice that satisfies the requirements of sections 14.14, 14.22, and 14.50, and the requirements of the rules of the office of administrative hearings ~~and of the attorney general.~~

Sec. 13. Minnesota Statutes 1996, 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~~ must be available to the public. The statement of need and reasonableness ~~must include the analysis required in section 14.131 and the comments and recommendations of the commissioner of finance, and must address any fiscal and policy concerns raised during the review process, as required by section 16A.1285.~~ The statement must also describe the agency's efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rules or must explain why these efforts were not made. For at least 30 days following the notice, the agency shall afford the public an opportunity to request a public hearing and to submit data and views on the proposed rule in writing.

The agency shall send a copy of the statement of need and reasonableness to the ~~legislative commission to review administrative rules~~ reference library when it becomes available to the public.

Sec. 14. Minnesota Statutes 1996, section 14.26, subdivision 1, is amended to read:

Subdivision 1. **SUBMISSION.** If no hearing is required, the agency shall submit to an administrative law judge assigned by the chief administrative law judge 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 administrative law judge. This notice ~~shall~~ must be given on

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the same day that the record is submitted. If the proposed rule has been modified, the notice shall must state that fact, and shall must also state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials shall must be submitted to the administrative law judge 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 coordinating commission ~~to review administrative rules~~, other appropriate legislative committees, and the governor.

Sec. 15. Minnesota Statutes 1996, section 14.26, subdivision 3, is amended to read:

Subd. 3. **REVIEW.** (a) Within 14 days, the administrative law judge shall, ~~within 14 days~~, approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantial-ly different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, 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. If the rule is approved, the administrative law judge 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 administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

(b) The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the legislative coordinating commission to review administrative rules, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The rule shall may not be filed in the office of the secretary of state, nor published, until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

(c) If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission ~~to review administrative rules~~ for the commission's advice and comment. The agency shall may not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to wait for the commission's advice for more than 60 days after the commission has received the agency's submission.

(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

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

Sec. 16. Minnesota Statutes 1996, section 14.47, subdivision 6, is amended to read:

Subd. 6. **OMISSION OF TEXT.** (a) For purposes of any compilation or publication of the rules, the revisor, unless the attorney general objects, may omit any extraneous descriptive or informative text ~~which~~ that is not an operative portion of the rule. The revisor may also omit effective date provisions, statements that a rule is repealed, prefaces, appendices, guidelines, organizational descriptions, explanations of federal or state law, and similar material. The revisor shall consult with the agency, the attorney general, the legislative coordinating commission to review administrative rules, and ~~with the chief administrative law judge~~ before omitting any text from publication.

(b) For the purposes of any compilation or publication of the rules, the revisor, unless the attorney general objects, may omit any rules that, by their own terms, are no longer effective or have been repealed directly by the agency, repealed by the legislature, or declared unconstitutional or otherwise void by a court of last resort. ~~The revisor shall not remove a rule which is suspended and not fully repealed, but shall, if practicable, note the fact of suspension in Minnesota Rules.~~ The revisor shall consult the agency involved, the attorney general, the chief administrative law judge, and the legislative coordinating commission to review administrative rules before omitting a rule from publication.

Sec. 17. **REPEALER.**

Minnesota Statutes 1996, sections 3.842, subdivisions 4, 5, 6, and 7; 3.844; 3.845; and 15.065, are repealed.

Presented to the governor May 5, 1997

Signed by the governor May 6, 1997, 2:35 p.m.

CHAPTER 99—S.F.No. 950

An act relating to education; adopting working group recommendations for conducting teacher background checks; amending Minnesota Statutes 1996, section 120.1045.

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

Section 1. Minnesota Statutes 1996, section 120.1045, is amended to read:

120.1045 **BACKGROUND CHECK.**

Subdivision 1. **BACKGROUND CHECK REQUIRED.** (a) A school hiring authority, as defined in subdivision 4, shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school, as defined in subdivision 4. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or cashier's check payable to either the bureau of criminal apprehension for the fee for or the school hiring authority, at the election of the school hiring authority, in an amount equal to the actual cost to the bureau of criminal apprehension and the school district of conducting the criminal history back-

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