

The director of the historical society commissioner may make and issue such adopt rules, not inconsistent with law, as may be required to carry out the provisions of sections 138.31 to 138.42. In making such rules, they shall the commissioner must consult with other agencies of the state whose activities may be affected thereby by the rules.

Sec. 7. Minnesota Statutes 2000, section 138.41, subdivision 1, is amended to read:

Subdivision 1. **WILLFUL VIOLATIONS.** Whoever willfully violates section 138.33, or willfully defaces, injures, destroys, displaces, or removes any object or data belonging to the state, or willfully interferes with evidence or work on any state site or other site for which a license has been issued, or willfully violates any other provision of sections 138.31 to 138.42, or the rules issued adopted by the director of the historical society commissioner is guilty of a gross misdemeanor.

Sec. 8. **REPEALER.**

Minnesota Statutes 2000, sections 13.6401, subdivision 3; and 16B.415, are repealed. Minnesota Statutes 2000, section 84B.11, is repealed effective July 1, 2003.

Presented to the governor March 25, 2002

Signed by the governor March 26, 2002, 2:35 p.m.

CHAPTER 299—S.F.No. 2890

An act relating to contracts; regulating public works contracts; proposing coding for new law in Minnesota Statutes, chapter 15.

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

Section 1. [15.411] PUBLIC WORKS CONTRACTS; NO DAMAGES FOR DELAY CLAUSES.

Subdivision 1. **DEFINITION.** As used in this section, the term “public works contract” means a contract of the state, or a county, city, town, school district, special district, or any other political subdivision of the state, for the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of any building, structure, highway, bridge, viaduct, pipeline, railway, public works, or any other works dealing with construction. The term includes, but is not limited to, moving, demolition, or excavation performed in conjunction with the work specified in this subdivision.

Subd. 2. **UNENFORCEABILITY.** Any clause in a public works contract that waives, releases, or extinguishes the rights of a contractor to seek recovery for costs or damages, or seek an equitable adjustment, for delays, disruption, or acceleration in performing the contract is void and unenforceable if the delay, disruption, or acceleration is caused by acts of the contracting public entity or persons acting on

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behalf of the public entity for which the public entity is legally responsible.

Subd. 3. **SEVERABILITY.** When a contract contains a provision that is void and unenforceable under subdivision 2, that provision must be severed from the other provisions of the contract to the extent that it is void and unenforceable. The fact that the provision is void and unenforceable does not affect the other provisions of the contract.

Subd. 4. **SCOPE AND EFFECT.** Subdivision 2 does not make void and unenforceable any contract provision of a public works contract that:

(1) requires notice of any delay, disruption, or acceleration by the party affected thereby;

(2) provides for reasonable liquidated damages; or

(3) provides for arbitration or any other procedure designed to settle contract disputes.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective August 1, 2002, and applies to public works contracts entered into on or after that date.

Presented to the governor March 26, 2002

Signed by the governor March 27, 2002, 3:38 p.m.

CHAPTER 300—S.F.No. 2793

An act relating to health services; requiring the commissioner of human services to develop a plan to certify out-of-state facilities that care for children with severe emotional disturbance.

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

Section 1. **PLAN TO CERTIFY OUT-OF-STATE FACILITIES THAT CARE FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE.**

The commissioner of human services shall develop a plan to expand the provisions of Minnesota Statutes, section 256B.0945, to allow medical assistance to reimburse counties for children's mental health residential treatment services provided in out-of-state facilities located in the border states of Iowa, North Dakota, South Dakota, and Wisconsin. The commissioner's plan must include a certification procedure in lieu of state licensing for these out-of-state facilities and a method to set rates for out-of-state care comparable to those paid for care provided by in-state facilities. The plan, including proposed legislation, is due to the house of representatives and senate committees having jurisdiction over human services issues by December 15, 2002.

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