

CHAPTER 179

LABOR RELATIONS

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179.63 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1980]

Subd. 7. "Public employee" or "employee" means any person appointed or employed by a public employer except:

- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's bargaining unit;

(f) employees who hold positions of a basically temporary or seasonal character for a period not in excess of 100 working days in any calendar year;

The exclusions of clauses (e) and (f) shall not apply to:

(1) an employee hired by a school district to replace an absent teacher who at the time of his absence is a "public employee" not within the other exclusions of this subdivision where the replacement employee is employed more than 30 working days as a replacement for that teacher; and

(2) an employee hired by a school district for a teaching position created by increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons.

Employees included as "public employees" pursuant to clauses (1) and (2) shall not be included under master contracts expiring June 30, 1981, for purposes of salary or fringe benefits;

(g) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(h) full time undergraduate students employed by the school which they attend under a work study program or in connection with the receipt of any financial aid, irrespective of number of hours of service per week;

(i) an individual who renders part time teaching service for less than 300 hours in a fiscal year as an instructor in an adult vocational education program.

[For text of subs 8 to 19, see M.S.1980]

History: 1981 c 289 s 2

179.68 UNFAIR PRACTICES.

[For text of subd 1, see M.S.1980]

Subd. 2. Public employers, their agents or representatives are prohibited from:

(1) interfering, restraining or coercing employees in the exercise of the rights guaranteed in sections 179.61 to 179.76;

(2) dominating or interfering with the formation, existence or administration of any employee organization or contributing other support to it;

(3) discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization;

(4) discharging or otherwise discriminating against an employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under sections 179.61 to 179.76;

(5) refusing to meet and negotiate in good faith with the exclusive representative of its employees in an appropriate unit;

(6) refusing to comply with grievance procedures contained in an agreement as required by section 179.70;

(7) distributing or circulating any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment;

(8) violating any of the rules and regulations established by the director regulating the conduct of representation elections or

(9) refusing to comply with the provisions of a valid decision of a binding arbitration panel or arbitrator acting pursuant to sections 179.61 to 179.76;

(10) violating or refusing to comply with any lawful order or decision issued by the director or the board;

(11) refusing to provide upon the request of the exclusive representative all information pertaining to the public employer's budget both present and proposed, revenues and other financing information. In the executive branch of state government, the provisions of this clause shall not be considered contrary to the budgetary requirements set forth in sections 16A.10 and 16A.11.

[For text of subd 3, see M.S.1980]

History: 1Sp1981 c 4 art 1 s 89

179.69 PROCEDURES.

[For text of subs 1 to 3, see M.S.1980]

Subd. 3a. **Binding arbitration petitions for essential employees.** For all public employees defined as essential pursuant to section 179.63, subdivision 11, or treated as though they were essential pursuant to section 179.65, subdivision 6, the director shall only certify a matter to the board for binding arbitration pursuant to section 179.72 when either or both parties petition for binding arbitration stating that an impasse has been reached and the director has determined that further mediation efforts under subdivision 1 would serve no purpose.

[For text of subd 3b, see M.S.1980]

History: 1Sp1981 c 4 art 1 s 90

179.691 NEW EXCLUSIVE REPRESENTATIVE OF TEACHERS.

If a new or different exclusive representative of teachers employed by a local school district is certified by the director at any time other than the period

between 120 days before the termination date of a contract and the termination date of the contract, or if on July 1 of any odd-numbered year a representation proceeding involving the employer and the employer's teachers is before the director, the provisions of section 179.64, subdivision 1a, clause (1) shall apply. In those cases, however, the employer and the exclusive representative of the teachers shall execute a written contract or memorandum of contract as provided in section 179.70 no later than 60 days after a certification by the director of a new or different exclusive representative or the resolution by the director of a representation proceeding. Either party may petition the director of mediation services for assistance in reaching an agreement, as provided in section 179.69, subdivision 1. If the employer and the exclusive representative of the teachers fail to execute a contract by 60 days after the certification of a new or different exclusive representative or the resolution by the director of a representation proceeding, they shall be conclusively presumed to be at an impasse after having participated in mediation sessions called pursuant to section 179.69 over a period of no less than 60 days.

History: *1Sp1981 c 4 art 2 s 14*

179.692 NEW EXCLUSIVE REPRESENTATIVE; NON-TEACHERS.

If a new or different exclusive representative of employees other than teachers employed by a local school district is certified by the director, or if on the expiration date of an existing contract a representation proceeding is before the director, the provisions of section 179.64, subdivision 1, clause (1) shall apply. In those cases, however, the employer and the exclusive representative of the employees shall execute a written contract or memorandum of contract as provided in section 179.70 no later than 45 days after a certification by the director of a new or different exclusive representative or the resolution by the director of a representation proceeding. Either party may petition the director of mediation services for assistance in reaching an agreement, as provided in section 179.69, subdivision 1. If the employer and the exclusive representative fail to execute a contract by 45 days after the certification of a new or different exclusive representative or the resolution by the director of a representation proceeding, they shall be conclusively presumed to be at an impasse after having participated for a period of no less than 45 days in mediation sessions called pursuant to section 179.69.

History: *1Sp1981 c 4 art 2 s 15*

179.71 DIRECTOR'S POWER, AUTHORITY AND DUTIES.

[For text of subd 1, see M.S.1980]

Subd. 2. The director shall accept and investigate all petitions for:

- (a) certification or decertification as the exclusive representative of an appropriate unit;
- (b) mediation services;
- (c) any election or other voting procedures provided for in sections 179.61 to 179.76;
- (d) certification to the board of arbitration;
- (e) upon the receipt of a \$10 filing fee, to hear and decide all issues in a fair share fee challenge.

[For text of subds 3 to 8, see M.S.1980]

History: *1981 c 356 s 329*

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179.74 STATE AND ITS EMPLOYEES; NEGOTIATIONS; APPROPRIATE UNITS.

[For text of subs 1 to 3, see M.S.1980]

Subd. 4. The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in section 179.741, subdivision 1, in the manner prescribed by sections 179.61 to 179.76. The appropriate units provided for in section 179.741 shall be the only appropriate units for executive branch state employees. The positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with the provisions of section 43.326 and so designated in the official state compensation schedules, all unclassified positions in the state university system and the community college system defined as managerial by their respective boards, all positions of physician employees compensated pursuant to section 43.126, the positions of all unclassified employees appointed by the governor, lieutenant governor, secretary of state, attorney general, treasurer and auditor, all positions in the bureau of mediation services and the public employment relations board, all hearing examiner and compensation judge positions in the office of administrative hearings, and the positions of all confidential employees shall be excluded from any appropriate unit. The governor may upon the unanimous written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

[For text of subd 5, see M.S.1980]

History: 1981 c 346 s 138

179.741 STATE AND UNIVERSITY OF MINNESOTA EMPLOYEES; APPROPRIATE UNITS.

[For text of subs 1 and 2, see M.S.1980]

Subd. 3. **University of Minnesota.** Subject to the provisions of section 179.742, subdivision 5 all appropriate units of University of Minnesota employees certified as of April 25, 1980 are abolished. The following shall be the appropriate units of University of Minnesota employees for the purposes of sections 179.61 to 179.76. All units shall exclude managerial and confidential employees and supervisory employees shall only be assigned to unit 12. No additional units of University of Minnesota employees shall be recognized for the purpose of meeting and negotiating.

(1) Law enforcement unit. This unit shall consist of the positions of all employees with the power of arrest.

(2) Craft and trades unit. This unit shall consist of the positions of all employees whose work requires specialized manual skills and knowledge acquired through formal training or apprenticeship or equivalent on-the-job training or experience.

(3) Service, maintenance and labor unit. This unit shall consist of the positions of all employees whose work is typically that of maintenance, service or labor and which does not require extensive previous training or experience, except as provided in unit 4.

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(4) Health care non-professional and service unit. This unit shall consist of the positions of all non-professional employees of the University of Minnesota hospitals, dental school and health service whose work is unique to those settings, excluding labor and maintenance employees as defined in unit 3.

(5) Nursing professional unit. This unit shall consist of all positions which are required to be filled by registered nurses.

(6) Clerical and office unit. This unit shall consist of the positions of all employees whose work is typically clerical or secretarial, including non-technical data recording and retrieval and general office work, except as provided in unit 4.

(7) Technical unit. This unit shall consist of the positions of all employees whose work is not typically manual and which requires specialized knowledge or skills acquired through two year academic programs or equivalent experience or on-the-job training, except as provided in unit 4.

(8) Twin Cities instructional unit. This unit shall consist of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, located on the Twin Cities campuses.

(9) Outstate instructional unit. This unit shall consist of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, located at the Duluth campus, provided that the positions of instructional employees of the same ranks at the Morris, Cookston or Waseca campuses shall be included within this unit if a majority of the eligible employees voting at a campus so vote during an election conducted by the director, provided that such an election shall not be held unless and until the Duluth campus has voted in favor of representation. The election shall be held when an employee organization or group of employees petitions the director stating that a majority of the eligible employees at one of these campuses wishes to join the unit and this petition is supported by a showing of at least 30 percent support from eligible employees at that campus and is filed within 60 days of April 25, 1980 or, after January 1, 1981, during the period between September 1 and November 1.

(10) Graduate assistant unit. This unit shall consist of the positions of all graduate assistants who are enrolled in the graduate school and who hold the rank of research assistant, teaching assistant, teaching associate I or II, project assistant, or administrative fellow I or II.

(11) Non-instructional professional unit. This unit shall consist of the positions of all employees meeting the requirements of either clause (a) or (b) of section 179.63, subdivision 10, which are not defined as included within the instructional unit.

(12) Supervisory employees unit. This unit shall consist of the positions of all supervisory employees.

The employer shall petition the director within 90 days of April 25, 1980 indicating his position with respect to the allocation of all positions to the units provided in this subdivision. The employer shall serve a copy of the petition on the exclusive representatives of the affected employees. When the employer's position with respect to the positions to be included within a unit established by this subdivision is challenged by an employee organization petitioning under section 179.67, the director shall make a determination as to the allocation of the challenged positions under the language of subdivision 3. His determination shall be made within 60 days of receipt of the petitioning organization's challenge and

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may be appealed only to the supreme court which shall hear the matter on an expedited basis. Should both units 8 and 9 each elect exclusive bargaining representatives, those representatives may by mutual agreement jointly negotiate a contract with the regents, or may negotiate separate contracts with the regents. If the exclusive bargaining representatives jointly negotiate a contract with the regents, the contract shall be ratified by each unit.

[For text of subd 4, see M.S.1980]

History: 1981 c 70 s 1