

## CHAPTER 179

### LABOR RELATIONS

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### MINNESOTA LABOR RELATIONS ACT

#### 179.01 DEFINITIONS; MINNESOTA LABOR RELATIONS ACT.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 179.01 to 179.17, shall be given the meanings subjoined to them.

Subd. 2. **Person.** "Person" includes individuals, partnerships, associations, corporations, trustees, and receivers.

Subd. 3. **Employer.** "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state, or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time, nor the state or any political or governmental subdivision thereof except when used in section 179.13.

Subd. 4. **Employee.** "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice, as defined in section 179.12, on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

Subd. 5. **Representative of employees.** "Representative of employees" means a labor organization or one or more individuals selected by a group of employees as provided in section 179.16.

Subd. 6. **Labor organization.** "Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment.

Subd. 7. **Labor dispute.** "Labor dispute" includes any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

Subd. 8. **Strike.** "Strike" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute.

Subd. 9. **Lockout.** "Lockout" is the refusal of the employer to furnish work to employees as a result of a labor dispute.

Subd. 10. **Commission.** "Commission" means the commission of three members which may be appointed by the governor to conduct hearings under this chapter.

Subd. 11. **Unfair labor practice.** "Unfair labor practice" means an unfair labor practice defined in sections 179.11 and 179.12.

Subd. 12. **Competent evidence.** "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief.

Subd. 13. **Agricultural products.** "Agricultural products" includes, but is not restricted to, horticultural, viticultural, dairy, livestock, poultry, bee, and any farm products.

Subd. 14. **Processor.** "Processor" means the person who first processes or prepares agricultural products, or manufactures products therefrom, for sale after receipt thereof from the producer.

Subd. 15. **Marketing organization.** "Marketing organization" means any organization of producers or processors organized to engage in any activity in connection with the marketing or selling of agricultural products or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping or utilization thereof, or the manufacturing or marketing of the by-products thereof, or in connection with the manufacturing, selling or supply of machinery, equipment, or supplies for their members or patrons.

Subd. 16. **Professional strikebreaker.** "Professional strikebreaker" means any person who:

(a) Offers himself to an employer at whose place of business a labor dispute is presently in progress for the purpose of employment to replace an employee or employees involved in such labor dispute; and

(b) During a period of five years immediately preceding such offer, has, on more than one occasion, offered himself to employers for temporary employment for the purpose of replacing employees involved in labor disputes. For the purposes of this subdivision, "employment" shall mean the rendering of services for wages or other consideration. For the purposes of this subdivision, "offer" shall include arrangements made for or on behalf of employers by any person.

**History:** 1939 c 440 s 1; 1943 c 624 s 1,5; 1973 c 149 s 1 (4254-21)

### 179.02 BUREAU OF MEDIATION SERVICES.

Subdivision 1. There is established a bureau of mediation services under the supervision and control of a director. The director shall be appointed by the governor under the provisions of section 15.06.

Subd. 2. The governor may, from time to time, appoint special mediators to aid in the settlement of particular labor disputes or controversies who shall have the same power and authority as the director with respect to such dispute and such appointment shall be for the duration only of the particular dispute. Such special mediators shall be paid a per diem of \$75 per day while so engaged and their necessary expenses. The director shall prepare a roster of persons qualified to act as such special mediators and keep the same revised at all times and available to the governor and the public.

**History:** 1939 c 440 s 2; 1949 c 739 s 14; 1951 c 713 s 17; 1969 c 1129 art 2 s 1; 1977 c 305 s 25 (4254-22)

### 179.03 POLITICAL ACTIVITIES FORBIDDEN.

Any mediator, under the provisions of sections 179.01 to 179.17, who exerts his influence, directly or indirectly, to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes shall forthwith be removed from his office or position by the authority appointing him; provided, that before removal the director of mediation services shall be entitled to a hearing before the governor, and any other employee shall be entitled to a similar hearing before the director of mediation services.

**History:** 1939 c 440 s 3; 1969 c 1129 art 2 s 2; 1974 c 139 s 1 (4254-23)

### 179.04 EXPENSES; FEES.

Subdivision 1. The director of mediation services and his employees, or any special mediator, shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties. Vouchers for such expenses shall be itemized and sworn to by the person incurring the expense.

Subd. 2. The director shall charge a fee to each participant at a labor relations education seminar or workshop so that all expenditures except salaries of bureau employees are reimbursed at least 100 percent. Receipts shall be credited to the general fund.

**History:** 1939 c 440 s 4; 1969 c 1129 art 2 s 3; 1979 c 333 s 89 (4254-24)

### 179.05 RULES AND REGULATIONS FOR HEARINGS.

The director of mediation services shall adopt reasonable and proper rules and regulations relative to and regulating the conduct of the hearings. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided, that every such rule or regulation shall be filed with the secretary of the state, and any change therein or additions thereto shall not take effect until 20 days after such filing.

**History:** 1939 c 440 s 5; 1969 c 1129 art 2 s 4 (4254-25)

**179.06 COLLECTIVE BARGAINING AGREEMENTS.**

Subdivision 1. **Notices.** When any employee, employees, or representative of employees, or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, which notice shall follow the employer if the place of employment is changed, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representative, or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten days after service of such notice, any employees, representative, labor organization, or employer may at any time thereafter petition the director of mediation services to take jurisdiction of the dispute and it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lock-out, unless such petition has been served by the party taking such action upon the director and the other parties to the labor dispute at least ten days before the strike or lock-out becomes effective. Unless the strike or lock-out is commenced within 90 days from the date of service of the petition upon the director, it shall be unlawful for any of the parties to institute or aid in the conduct of a strike or lock-out without serving a new petition in the manner prescribed for the service of the original petition, provided that the 90-day period may be extended by written agreement of the parties filed with the director.

A petition by the employer shall be signed by him or his duly authorized officer or agent; and a petition by the employees shall be signed by their representative or its officers, or by the committee selected to negotiate with the employer. In either case the petition shall be served by delivering it to the director in person or by sending it by certified mail addressed to him at his office. The petition shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a petition, the director shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and he shall then take whatever steps he deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the director for joint or several conferences with him and to continue in such conference until excused by the director, not beyond the ten-day period heretofore prescribed except by mutual consent of the parties.

Subd. 2. **Director, powers and duties.** The director may at the request of either party to a labor dispute render assistance in settling the dispute without the necessity of filing the formal petition referred to in subdivision 1. If the director takes jurisdiction of the dispute as a result of such a request, he shall then proceed as provided in subdivision 1.

**History:** 1939 c 440 s 6; 1941 c 469 s 1; 1955 c 837 s 1; 1969 c 1129 art 2 s 5 (4254-26)

**179.07 LABOR DISPUTE AFFECTING PUBLIC INTERESTS; PROCEDURE.**

If the dispute is in any industry, business, or institution affected with a public interest, which includes, but is not restricted to, any industry, business, or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health, or well-being of a substantial number of people of any community, the provisions of

section 179.06 shall apply and the director of mediation services shall also notify the governor who may appoint a commission of three to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the governor decides to appoint a commission, he shall so advise the director who shall immediately notify the parties to the labor dispute and also inform them of the date of the notification to the governor. The members of such commission shall on account of vocations, employment, or affiliations be representatives of employees, employers, and the public, respectively. Such report shall be filed with the governor not less than five days before the end of the 30-day period hereinafter provided and may be published as he may determine in one or more legal newspapers in the counties where the dispute exists. If and when the governor shall notify the director of his decision to appoint a commission, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until 30 days shall have elapsed after the notification to the governor. In case the governor shall fail to appoint a commission within five days after the notification to him, this limitation on the parties shall be suspended and inoperative. If the governor shall thereafter appoint a commission, no strike or lockout having been instituted in the meantime, the limitation shall again become operative, but in no case for more than the 30-day period. The 30-day period may be extended by stipulation upon the record of the hearing before the commission or by written stipulation signed by the parties to the labor dispute and filed with the director. If so extended, the report of the commission shall be filed with the governor not less than five days before the end of the extended period.

**History:** 1939 c 440 s 7; 1941 c 469 s 2; 1969 c 1129 art 2 s 6 (4254-27)

#### **179.08 POWERS OF COMMISSION APPOINTED BY GOVERNOR.**

(1) The commission appointed by the governor pursuant to the provisions of sections 179.01 to 179.17 shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chairman administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the labor dispute has arisen or exists;

(2) In case of contumacy or refusal to obey a subpoena issued under clause (1), the district court of the state for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business, or application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by the court as a contempt thereof;

(3) Any party to or party affected by the dispute may appear before the commission in person or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard on the issues before the report is made.

Any commissioners so appointed shall be paid a per diem of \$75 and their necessary expenses while serving.

**History:** 1939 c 440 s 8; 1941 c 469 s 3; 1969 c 1129 art 2 s 7 (4254-28)

#### **179.083 JURISDICTIONAL CONTROVERSIES.**

Whenever two or more labor organizations adversely claim for themselves or their members jurisdiction over certain classifications of work to be done for any

employer or in any industry, or over the persons engaged in or performing such work and such jurisdictional interference or dispute is made the ground for picketing an employer or declaring a strike or boycott against him, the director of mediation services shall certify that fact to the governor. Upon receipt of such certification the governor, in his discretion, may appoint a labor referee to hear and determine the jurisdictional controversy. If the labor organizations involved in the controversy have an agreement between themselves defining their respective jurisdictions, or if they are affiliated with the same labor federation or organization which has by the charters granted to the contending organizations limited their jurisdiction, the labor referee shall determine the controversy in accordance with the proper construction of the agreement or of the provisions of the charters of the contending organizations. If there is no agreement or charter which governs the controversy, the labor referee shall make such decision as, in consideration of past history of the organization, harmonious operation of the industry, and most effective representation for collective bargaining, will best promote industrial peace. If the labor organizations involved in the controversy so desire, they may submit the controversy to a tribunal of the federation or labor organization which has granted their charters or to arbitration before a tribunal selected by themselves, provided the controversy is so submitted prior to the appointment by the governor of a labor referee to act in the controversy. After the appointment of the labor referee by the governor, or the submission of the controversy to another tribunal as herein provided, it shall be unlawful for any person or labor organization to call or conduct a strike or boycott against the employer or industry or to picket any place of business of the employer or in the industry on account of such jurisdictional controversy.

*History: 1943 c 624 s 6; 1969 c 1129 art 2 s 8*

#### **179.09 ARBITRATION.**

When a labor dispute arises which is not settled by mediation such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including among other methods the arbitration procedure under the terms of sections 572.08 to 572.26 and arbitration under the voluntary industrial arbitration tribunal of the American arbitration association. If such agreement so provides, the director of mediation services may act as a member of any arbitration tribunal created by any such agreement and, if the agreement so provides, the director may appoint one or more of such arbitrators. Either or both of the parties to any such agreement or any arbitration tribunal created under any such agreement may apply to the director to have the tribunal designated as a temporary arbitration tribunal and, if so designated, the temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under section 179.08. Any such temporary arbitration tribunal shall file with the director a copy of its report, duly certified by its chairman.

*History: 1939 c 440 s 9; 1957 c 633 s 24; 1969 c 1129 art 2 s 9 (4254-29)*

#### **179.10 JOINING LABOR ORGANIZATIONS; UNITING FOR COLLECTIVE BARGAINING.**

Subdivision 1. **Employees' right of self-organization.** Employees shall have the right of self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employees shall have the right to refrain from any and all such activities.

Subd. 2. **Employers associations.** Employers have the right to associate together for the purpose of collective bargaining.

**History:** 1939 c 440 s 10; 1941 c 469 s 4 (4254-30).

### 179.11 UNFAIR LABOR PRACTICES BY EMPLOYEES.

It shall be an unfair labor practice:

(1) For any employee or labor organization to institute a strike if such strike is a violation of any valid collective agreement between any employer and his employees or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;

(2) For any employee or labor organization to institute a strike if the calling of such strike is in violation of sections 179.06 or 179.07;

(3) For any person to seize or occupy property unlawfully during the existence of a labor dispute;

(4) For any person to picket or cause to be picketed a place of employment of which place the person is not an employee while a strike is in progress affecting the place of employment, unless the majority of persons engaged in picketing the place of employment at these times are employees of the place of employment;

(5) For more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time;

(6) For any person to interfere in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of the vehicle is at the time a party to a strike;

(7) For any employee, labor organization, or officer, agent, or member thereof, to compel or attempt to compel any person to join or to refrain from joining any labor organization or any strike against his will by any threatened or actual unlawful interference with his person, immediate family, or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment;

(8) Unless the strike has been approved by a majority vote of the voting employees in a collective bargaining unit of the employees of an employer or association of employers against whom such strike is primarily directed, for any person or labor organization to cooperate in engaging in, promoting or inducing a strike. Such vote shall be taken by secret ballot at an election called by the collective bargaining agent for the unit, and reasonable notice shall be given to all employees in the collective bargaining unit of the time and place of election.

(9) For any person or labor organization to hinder or prevent by intimidation, force, coercion or sabotage, or by threats thereof, the production, transportation, processing or marketing by a producer, processor or marketing organization, of agricultural products, or to combine or conspire to cause or threaten to cause injury to any processor, producer or marketing organization, whether by withholding labor or other beneficial intercourse, refusing to handle, use or work on particular agricultural products, or by other unlawful means, in order to bring such processor or marketing organization against his or its will into a concerted plan to coerce or inflict damage upon any producer; provided that nothing in this subsection shall prevent a strike which is called by the employees of such producer, processor or marketing organization for the bona fide purpose of improving their own working conditions or promoting or protecting their own rights of organization, selection of bargaining representative or collective bargaining.

(10) The violation of clauses (2), (3), (4), (5), (6), (7), (8) and (9) are hereby declared to be unlawful acts.

**History:** 1939 c 440 s 11; 1941 c 469 s 7; 1943 c 624 s 2,3 (4254-31)

**179.12 EMPLOYERS' UNFAIR LABOR PRACTICES.**

It shall be an unfair labor practice for an employer:

(1) To institute any lock-out of his employees in violation of any valid collective bargaining agreement between the employer and his employees or labor organization if the employees at the time are in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;

(2) To institute any lock-out of his employees in violation of section 179.06 or 179.07;

(3) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, that this clause shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing the employees as a bargaining agent, as provided by section 179.16;

(4) To discharge or otherwise to discriminate against an employee because he has signed or filed any affidavit, petition, or complaint or given any information or testimony under this chapter;

(5) To spy directly or through agents or any other persons upon any activities of employees or their representatives in the exercise of their legal rights;

(6) To distribute or circulate 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;

(7) To engage or contract for the services of a person who is an employee of another if such employee is paid a wage which is less than is agreed to be paid by the engaging or contracting employer under an existing union contract for work of the same grade or classification;

(8) Wilfully and knowingly to utilize any professional strikebreaker to replace an employee or employees involved in a strike or lockout at a place of business located within this state;

(9) The violation of clauses (2), (4), (5), (6), (7), and (8) are hereby declared to be unlawful acts.

**History:** 1939 c 440 s 12; 1941 c 469 s 8; 1955 c 669 s 1; 1973 c 149 s 2 (4254-32)

**179.121 OPERATION OF VEHICLE WHERE DISPUTE IS IN PROGRESS.**

Any person who operates a motor vehicle which is entering or leaving a place of business or employment where there is a clear notice that a labor dispute is in progress, and who fails to bring the vehicle to a full stop at the entrance to or exit from that place, or who fails to exercise caution in entering or leaving that place, is guilty of a misdemeanor.

**History:** 1979 c 331 s 1

**179.13 INTERFERENCES WHICH ARE UNLAWFUL.**

Subdivision 1. It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment.

Subd. 2. It is an unfair labor practice for any employee or labor organization to commit an unlawful act as defined in subdivision 1.

**History:** 1939 c 440 s 13; 1943 c 624 s 4 (4254-33)



**179.135 PROTECTION OF COLLECTIVE BARGAINING AGREEMENTS.**

Subdivision 1. **Agreement protected from intervention.** No employer holding a valid collective bargaining agreement with any labor organization recognized or certified by the director of mediation services or the National Labor Relations Board as the accredited bargaining representative for the employees or any group of employees of such employer shall be required to enter into negotiations with any other labor organization respecting the employees covered by the existing union agreement, so long as the existing agreement remains in full force and effect in accordance with its terms except where a successor labor organization has been certified as the representative of the employees covered by such agreement by the director of mediation services or the National Labor Relations Board and recognized by the employer.

Subd. 2. **Prohibition against violation.** The violation of the provisions of this section by any officer, business agent, employee or other representative of any labor organization is prohibited.

**History:** 1947 c 593 s 1,2; 1969 c 1129 art 2 s 10

**179.14 INJUNCTIONS; TEMPORARY RESTRAINING ORDERS.**

When any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the district court of any county wherein such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in sections 179.11 and 179.12, the provisions of sections 185.02 to 185.19 shall not apply. No court of the state shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of sections 179.11 and 179.12, as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect that the acts set forth in sections 179.11 and 179.12 have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained. No temporary restraining order may be issued under the provisions of sections 179.01 to 179.17 except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony nor unless the temporary restraining order is returnable within seven days from the time it is granted which shall be noted on the order of the court. It shall be the duty of the court to give the trial or hearing of any suits or proceedings arising under this section precedence over all other civil suits which are ready for trial. Failure of the trial court to decide a motion for a temporary injunction within seven days from the date the hearing thereon is concluded shall dissolve any restraining order issued therein without further order of the court. Failure of the trial court to decide any suit brought under this section within 45 days from the date the trial was ended shall dissolve any restraining order or temporary injunction issued therein without further order of the court.

**History:** 1939 c 440 s 14; 1941 c 469 s 5; 1943 c 658 s 1 (4254-34)

**179.15 VIOLATORS NOT ENTITLED TO BENEFITS OF CERTAIN SECTIONS.**

Any employer, employee, or labor organization who has violated any of the provisions of sections 179.01 to 179.17 with respect to any labor dispute shall not be entitled to any of the benefits of sections 179.01 to 179.17 respecting such labor disputes and such employer, employee, or labor organization shall not be entitled to maintain in any court of this state an action for injunctive relief with respect to any matters growing out of that labor dispute, until he shall have in good faith

made use of all means available under the laws of the state of Minnesota for the peaceable settlement of the dispute.

**History:** 1939 c 440 s 15 (4254-35)

### 179.16 REPRESENTATIVES FOR COLLECTIVE BARGAINING.

Subdivision 1. **To be exclusive.** Representatives designated or selected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employee or group of employees shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing.

Subd. 2. **Certification of group representative by director.** When a question concerning the representative of employees is raised by an employee, group of employees, labor organization, or employer the director of mediation services or any person designated by him shall, at the request of any of the parties, investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designated or selected. The director shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining and otherwise to effectuate the purpose of this chapter, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, that any larger unit may be decided upon with the consent of all employers involved, and provided that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to such craft and a majority of such employees of such craft may designate a representative for such unit. Two or more units may, by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the director may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such representatives, but the director shall not certify any labor organization which is dominated, controlled, or maintained by an employer. If the director has certified the representatives as herein provided, he shall not be required to again consider the matter for a period of one year unless it appears to him that sufficient reason exists.

Subd. 3. **Witnesses; powers of director.** In the investigation of any controversy concerning the representative of employees for collective bargaining, the director of mediation services shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates directly to any matter involved in any such hearing, and the director or his representative may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the question has arisen or exists.

Subd. 4. **Contempt of court.** In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides shall have jurisdiction to issue to such person an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

**History:** 1939 c 440 s 16; 1941 c 469 s 6; 1969 c 1129 art 2 s 11,12 (4254-36)

**179.17 CITATION, LABOR RELATIONS ACT.**

Sections 179.01 to 179.17 may be cited as the Minnesota labor relations act.

**History:** 1939 c 440 s 19

**MINNESOTA LABOR UNION  
DEMOCRACY ACT****179.18 DEFINITIONS; MINNESOTA LABOR UNION DEMOCRACY ACT.**

Subdivision 1. **Persons.** "Persons" includes individuals, partnerships, associations, corporations, trustees, and receivers.

Subd. 2. **Labor organization.** "Labor organization" means any organization of employees or of persons seeking employment which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment, but shall not include any labor organization subject to the Federal Railway Labor Act as amended from time to time.

Subd. 3. **Employer.** "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time.

Subd. 4. **Employee.** "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section 179.12 on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

Subd. 5. **Representative of employees.** "Representative of employees" means any person acting or asserting the right to act for employees or persons seeking employment in collective bargaining or dealing with employers concerning grievances or terms or conditions of employments.

Subd. 6. **Competent evidence.** "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief.

**History:** 1943 c 625 s 1

**179.19 ELECTION OF OFFICERS OF LABOR ORGANIZATION.**

The officers of every labor organization shall be elected for such terms, not exceeding four years, as the constitution or bylaws may provide. The election shall be by secret ballot. The constitution or bylaws may provide for multiple choice voting, nomination by primaries or run-off elections, or other method of election by which selection by a majority may be obtained. In the absence of such provision, the candidate for any office receiving the largest number of votes cast for that office shall be declared elected. It is the duty of every labor organization and the officers thereof to hold an election for the purpose of electing the successor of every such officer prior to the expiration of his term. Any employee who is elected to a full time position in a labor organization shall be given a leave of absence for the duration of time he holds such office, without losing his seniority or his entitlement to any rights acquired as a result of his employment.

**History:** 1943 c 625 s 2; 1969 c 853 s 1

**179.20 NOTICE OF ELECTIONS GIVEN.**

Subdivision 1. **Publication.** No election required hereunder shall be valid unless reasonable notice thereof shall have been given to all persons eligible to vote thereat. Proof of publication of notice of an election in a trade union paper of general circulation among the membership of the union holding such election shall be conclusive proof of reasonable notice as required in this subdivision.

Subd. 2. **Plurality required.** No result of an election required hereunder shall be valid unless a plurality of the eligible persons voting thereat shall have cast their votes by secret ballot in favor of such result.

**History:** 1943 c 625 s 3

**179.21 REPORTS OF RECEIPTS AND DISBURSEMENTS.**

It is hereby made the duty of the officer of every labor organization who is charged with responsibility of money and property thereof to furnish to the members thereof in good standing a statement of the receipts and disbursements of the labor organization from the date of the next preceding statement and the assets and liabilities thereof to the date of the current statement. Such statement shall be furnished by such officer at the time prescribed by the constitution or laws of the labor organization, or it shall be furnished not later than the 1st day of July next following such calendar year.

**History:** 1943 c 625 s 4

**179.22 LABOR REFEREE.**

There is hereby created an office, to be known as labor referee. The governor may from time to time appoint labor referees for particular disputes as hereinafter provided. Such appointment shall be for the duration only of the particular dispute. Such labor referees shall be paid a per diem of \$75 per day while so engaged, and their necessary expenses. When approved by him, the director of mediation services shall cause to be paid, from the appropriation to him, the amount due to the labor referees for services and expenses.

**History:** 1943 c 625 s 5; 1969 c 1129 art 2 s 13

**179.23 DIRECTOR TO CERTIFY VIOLATIONS TO GOVERNOR.**

Subdivision 1. **Certification to governor.** Whenever it reasonably appears to the director of mediation services that any labor organization has failed substantially to comply with any of the requirements of sections 179.18 to 179.25, he shall certify that fact to the governor and transmit to the governor all the information he has received with reference thereto.

Subd. 2. **Governor may appoint a labor referee.** Upon receipt of such certification by the director of mediation services, the governor, within five days from the date of such certification, shall appoint, if he deems it advisable, a labor referee to act in the dispute. If the governor does not appoint a labor referee within five days, he shall so notify the director and return the files to him, which shall close the dispute.

Subd. 3. **Qualification of labor referee.** Upon receipt of notice of appointment as labor referee, such officer shall qualify by taking his oath of office and filing the same in the office of the secretary of state. He shall also notify the director of mediation services in writing of the date of filing such oath.

Subd. 4. **Notice of time and place of hearing.** Within ten days from the date of his appointment, the labor referee shall fix the time and place of hearing upon the complaint and send notice thereof by certified mail to the labor organization and to the officers thereof who are charged in the complaint with dereliction of

duties, the complainant and to such other persons as may be named as parties to the dispute.

**Subd. 5. Appearance; evidence.** Any party to or party affected by the dispute may appear at the hearing before the labor referee in person or by attorney or by other representative, and shall have the right to offer competent evidence and to be heard on the issues before any order herein provided is made. When all evidence has been adduced and the arguments heard, the labor referee shall prepare and file with the director of mediation services within 30 days from the close of testimony, his findings of fact and his order sustaining or dismissing the charges. If the charges are sustained, such labor organization is thereby disqualified from acting as the representative of employees until such disqualification has been removed as provided herein.

**Subd. 6. Removal of disqualification by labor organization.** Any labor organization which has been disqualified from acting as a representative of employees pursuant to subdivision 5 for failure to perform any duty imposed upon it by sections 179.18 to 179.25 may remove such disqualification by applying to the director of mediation services and submitting proof of performance of the duty for the non-performance of which the disqualification was imposed. Upon receipt of such application, the director shall notify all parties who participated in the hearing before the referee as adversary parties by mail of the filing of such application. If within 20 days after the mailing of such notice, written objection to the removal of such disqualification is filed with the director, he shall certify the dispute to the governor, and further proceedings shall thereupon be had in like manner hereinbefore provided for the determination of disputes. Thereupon the labor referee appointed for such proceedings shall make and file his order either confirming the prior order for disqualification or removing the disqualification, as the case may require. If no objection is so filed, the director shall make an order removing such disqualification.

**Subd. 7. Power of labor referee.** (1) The labor referee appointed by the governor pursuant to the provisions of sections 179.18 to 179.25 shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing, but hearings shall be held in a county where the dispute has arisen or exists.

(2) In case of contumacy or refusal to obey a subpoena issued under clause (1), the district court for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business, on application by the labor referee shall have jurisdiction to issue to such person an order requiring such person to appear before the labor referee, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

**History:** 1943 c 625 s 6; 1969 c 1129 art 2 s 14-18; 1978 c 674 s 60

#### **179.24 UNLAWFUL ACTS.**

It is unlawful for any labor organization which has been disqualified under section 179.23, subdivision 5, to act as a representative of employees.

**History:** 1943 c 625 s 7

#### **179.25 CITATION, LABOR UNION DEMOCRACY ACT.**

Sections 179.18 to 179.25 may be cited as the Minnesota labor union democracy act.

**History:** 1943 c 625 s 8

**179.254 CONSTRUCTION WORKERS INSURANCE BENEFIT FUNDS; DEFINITIONS.**

Subdivision 1. For the purposes of sections 179.254 to 179.256, the following terms shall have the meanings subscribed to them.

Subd. 2. "Benefit fund" means any trust fund established and operated for the purpose of providing medical, hospitalization, and other types of insurance, and other health, welfare and pension benefits for construction workers.

Subd. 3. "Construction worker" means any laborer or tradesman employed in the building or construction industry and engaged in, but not limited to, any of the following occupations: carpenters, electricians, plumbers, bricklayers, masons, steamfitters, pipefitters, iron workers, sheet metal workers, cement finishers, laborers, operating engineers, lathers, plasterers, painters, pipe coverers, and glasiers.

Subd. 4. "Member" means any construction worker who is qualified to receive benefits from a benefit fund under the rules of that fund.

**History:** 1974 c 50 s 1; 1976 c 232 s 1

**179.255 PAYMENTS INTO HOME BENEFIT FUND.**

Whenever a construction worker who is a member of a benefit fund works temporarily in a location such that contributions are made by or for him into another benefit fund, the trustees of the fund, or their agent, shall pay all such moneys to the trustees of the fund to which the construction worker is a member, except that such payment shall not exceed the rate of contribution to the fund in which the construction worker is a member. Payments may be made by check and shall be made promptly and regularly, at least once every 30 days. Each such payment from the trustees of one fund to the trustees of another shall be accompanied by a written statement including the name, address, and social security number of each construction worker for whom payment is made, the amount being paid for each worker, and the number of hours of work for which payment is being made.

**History:** 1974 c 50 s 2

**179.256 NOTIFICATION.**

Whenever a construction worker may qualify for the reimbursement of benefit payments to his home benefit fund as described in section 179.255, the trustees of the benefit fund of which he is a member, or their agent, shall so notify the trustees of the benefit fund to which payments will be made during the temporary period of work. Such notification shall be made promptly in writing and shall include the name, address, and social security number of the construction worker and the starting date of his temporary period of work.

**History:** 1974 c 50 s 3

**179.257 APPLICATION.**

The provisions of sections 179.254 to 179.256 requiring the transfer of payments between benefit funds shall apply only to those benefit funds which are established, located and maintained within this state. However nothing contained herein shall be construed to discourage the legislature of another state or to prohibit the trustees of a benefit fund which is located in another state from providing, in accordance with sections 179.254 to 179.257 and on a wholly reciprocal basis, transfers between such foreign benefit fund or funds and a benefit fund located within the state of Minnesota.

**History:** 1974 c 50 s 4

**CERTAIN REPRESENTATION DISPUTES;  
STRIKES, BOYCOTTS PROHIBITED****179.26 DEFINITIONS; CERTAIN REPRESENTATION DISPUTES.**

When used in sections 179.26 to 179.29, unless the context clearly indicates otherwise, each of the following words: employee, labor organization, strike, and lockout shall have the meaning ascribed to it in section 179.01.

**History:** 1945 c 414 s 1; 1949 c 299 s 1

**179.27 STRIKES OR BOYCOTTS PROHIBITED.**

When certification of a representative of employees for collective bargaining purposes has been made by proper federal or state authority, it is unlawful during the effective period of such certification for any employee, representative of employees or labor organization to conduct a strike or boycott against the employer of such employees or to picket any place of business of the employer in order, by such strike, boycott or picketing, (1) to deny the right of the representative so certified to act as such representative or (2) to prevent such representative from acting as authorized by such certification, or (3) to interfere with the business of the employer in an effort to do either act specified in clauses (1) and (2) hereof.

**History:** 1945 c 414 s 2

**179.28 RECOVERY FOR TORT.**

Any employer injured through commission of any unlawful act as provided in section 179.27 shall have a cause of action against any employees, representative of employees, or labor organization committing such unlawful act, and shall recover in a civil action all damages sustained by him from such injury.

**History:** 1945 c 414 s 3

**179.29 DISTRICT COURT HAS JURISDICTION.**

The district court of any county in which the employer does any business shall have jurisdiction to entertain an action arising under sections 179.26 to 179.29. Such action shall be tried by the court with a jury unless a jury be waived.

**History:** 1945 c 414 s 4

**HOSPITALS; STRIKES PROHIBITED,  
COMPULSORY ARBITRATION REQUIRED****179.35 DEFINITIONS; HOSPITAL NO STRIKE AND ARBITRATION ACT.**

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purposes of sections 179.35 to 179.39, shall be given the meanings subjoined to them.

Subd. 2. "Charitable hospital" includes all county and municipal hospitals and any hospital no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

Subd. 3. "Hospital employee" includes any person employed in any capacity by a charitable hospital, except an employee whose services are performed exclusively in connection with the operation of a commercial or industrial enterprise owned or operated by the charitable hospital for the production of profit, irrespective of the purposes to which such profit may be applied, and not engaged in any activity affecting the essential functions of the hospital.

Subd. 4. "Labor dispute" includes any controversy concerning employment, tenure, conditions, or terms of employment or concerning the association or right

of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

Subd. 5. "Strike" means the temporary stoppage of work by the concerted action of two or more hospital employees as a result of a labor dispute.

Subd. 6. "Lockout" means the refusal of a charitable hospital to furnish work to employees as a result of a labor dispute.

**History:** 1947 c 335 s 1; 1973 c 626 s 1

#### **179.36 STRIKES PROHIBITED.**

It is unlawful for any hospital employee or representative of the employee, as defined in Minnesota Statutes 1945, Section 179.01, Subdivision 5, to encourage, participate in, or cause any strike or work stoppage against or directly involving a charitable hospital.

**History:** 1947 c 335 s 2

#### **179.37 LOCKOUTS PROHIBITED.**

It is contrary to public policy and is hereby declared to be unlawful for any charitable hospital to institute, cause, or declare any lockout.

**History:** 1947 c 335 s 3

#### **179.38 ARBITRATION MANDATORY.**

In the event of the existence of any labor dispute which cannot be settled by negotiation between the charitable hospital employers and their employees, either such employers or employees may petition and avail themselves of the provisions of sections 179.01 to 179.17, insofar as sections are not inconsistent with the provisions of sections 179.35 to 179.39. If such dispute is not settled within ten days after submission to mediation, any unsettled issue of maximum hours of work, minimum hourly wage rates, and other conditions of employment concerning union security shall, upon service of written notice by either party upon the other party and the director of mediation services, be submitted to the determination of a board of arbitrators whose determination shall be final and binding upon the parties. The board of arbitrators shall be selected and proceed in the following manner, unless otherwise agreed between the parties: the employers shall appoint one arbitrator, the employees shall appoint one arbitrator, and the two arbitrators so chosen shall appoint a third arbitrator who shall act as chairman and who shall receive reasonable compensation for his work; but if said arbitrators are unable to agree upon the appointment of such third arbitrator within five days after submission to arbitration, the governor shall submit five names to the parties and the parties shall select the third arbitrator, who shall act as chairman, from the five submitted by the governor. The selection of the third arbitrator shall be by the process of elimination, with the parties taking turns at striking names from the list of five submitted by the governor, until only one name remains. If the parties are unable to agree with respect to which party shall take the first turn for the purpose of striking a name, it shall be decided by the flip of a coin. Each party shall be responsible for compensating the arbitrator of their choice, and the parties shall share equally the compensation paid to the third arbitrator. The board of arbitrators shall serve as a temporary arbitration tribunal and shall have the powers provided for commissioners under section 179.08. The board of arbitrators shall make its determination with all due diligence and shall file a copy of its report with the director of mediation services.

**History:** 1947 c 335 s 4; 1969 c 1129 art 2 s 19; 1973 c 723 s 1



**179.39 SECTIONS NOT APPLICABLE.**

The provisions of Minnesota Statutes 1945, Sections 185.02 to 185.19, shall not apply in the case of a threatened or existing strike or other work stoppage by hospital employees or in the case of a lockout by a charitable hospital, and such threatened or existing strike or other work stoppage or lockout may be enjoined by a court of equity.

**History:** 1947 c 335 s 5

**SECONDARY BOYCOTTS PROHIBITED****179.40 SECONDARY BOYCOTT; DECLARATION OF POLICY.**

As a guide to the interpretation and application of sections 179.40 to 179.47, the public policy of this state is declared to be:

To protect and promote the interests of the public, employees and employers alike, with due regard to the situation and to the rights of the others;

To promote industrial peace, regular and adequate income for employees, and uninterrupted production of goods and services; and

To reduce the serious menace to the health, morals and welfare of the people of this state arising from economic insecurity due to stoppages and interruptions of business and employment.

It is recognized that whatever may be the rights of disputants with respect to each other in any controversy, they should not be permitted, in their controversy, to intrude directly into the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life by lawful means and free from molestation, interference, restraint or coercion. The legislature, therefore, declares that, in its considered judgment, the public good and the general welfare of the citizens of this state will be promoted by prohibiting secondary boycotts and other coercive practices in this state.

**History:** 1947 c 486 s 1

**179.41 SECONDARY BOYCOTT DEFINED.**

As used in sections 179.40 to 179.47, the term "secondary boycott" means any combination, agreement, or concerted action;

(a) to refuse to handle goods or to perform services for an employer because of a labor dispute, agreement, or failure of agreement between some other employer and his employees or a bona fide labor organization, or

(b) to cease performing or to cause any employees to cease performing any services for an employer, or to cause loss or injury to such employer or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of, any other employer because of a dispute, agreement, or failure of agreement between the latter and his employees or a labor organization, or

(c) to cease performing or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of, any other employer because of an agreement, dispute, or failure of agreement between the latter and his employees or a labor organization.

**History:** 1947 c 486 s 2

**179.42 UNLAWFUL ACT AND UNFAIR LABOR PRACTICE.**

It is an unlawful act and an unfair labor practice for any person or organization to combine with another, to cause loss or injury to an employer, to refuse to handle or work on particular goods or equipment or perform services for an employer, or to withhold patronage, or to induce, or to attempt to induce, another to withhold patronage or other business intercourse, for the purpose of inducing or coercing such employer to persuade or otherwise encourage or discourage his employees to join or to refrain from joining any labor union or organization or for the purpose of coercing such employer's employees to join or refrain from joining any labor union or organization.

**History:** 1947 c 486 s 3

**179.43 ILLEGAL COMBINATION; VIOLATION OF PUBLIC POLICY.**

A secondary boycott as hereinbefore defined is hereby declared to be an illegal combination in restraint of trade and in violation of the public policy of this state.

**History:** 1947 c 486 s 4

**179.44 UNFAIR LABOR PRACTICE.**

The violation of any provision of section 179.41 is hereby declared to be an unfair labor practice and an unlawful act.

**History:** 1947 c 486 s 5

**179.45 RIGHTS AND REMEDIES.**

Any person who shall be affected by, or subjected to, or threatened with a secondary boycott, or any of the acts declared to be unlawful by sections 179.40 to 179.47, shall have all the rights and remedies provided for in Minnesota Statutes 1945, Chapter 179, but shall not be restricted to such remedies.

**History:** 1947 c 486 s 6

**179.46 LIMITATIONS; FEDERAL ACT.**

Nothing in sections 179.40 to 179.47 shall be construed as requiring any person to work or perform services against his will for any other person, nor to prohibit a strike, picketing or bannering which is otherwise lawful under the statutes and laws of this state; nothing in sections 179.40 to 179.47 shall be construed to apply to the refusal by an employee to enter upon the premises of an employer other than his own employer when the employees of such other employer are engaged in a strike which is not an unfair labor practice, but does not include any person subject to the Federal Railway Labor Act as amended from time to time.

**History:** 1947 c 486 s 7

**179.47 CONSTRUCTION OF SECTIONS 179.40 TO 179.47.**

Nothing contained in sections 179.40 to 179.47 is intended or shall be construed to repeal sections 179.01 to 179.13 and 179.14 to 179.39, or any part or parts thereof.

**History:** 1947 c 486 s 9

**179.50** [Repealed, Ex1971 c 33 s 17]

**179.51** [Repealed, Ex1971 c 33 s 17]

**179.52** [Repealed, Ex1971 c 33 s 17]

- 179.521 [Repealed, Ex1971 c 33 s 17]  
 179.522 [Repealed, Ex1971 c 33 s 17]  
 179.53 [Repealed, Ex1971 c 33 s 17]  
 179.54 [Repealed, Ex1971 c 33 s 17]  
 179.55 [Repealed, Ex1971 c 33 s 17]  
 179.56 [Repealed, Ex1971 c 33 s 17]  
 179.57 [Repealed, Ex1971 c 33 s 17]  
 179.571 [Repealed, Ex1971 c 33 s 17]  
 179.572 [Repealed, Ex1971 c 33 s 17]  
 179.58 [Repealed, Ex1971 c 33 s 17]

### PROHIBITING COERCION OF EMPLOYEE

#### 179.60 INTERFERING WITH EMPLOYEE OR MEMBERSHIP IN UNION.

It shall be unlawful for any person, company, or corporation, or any agent, officer, or employee thereof, to coerce, require, or influence any person to enter into any agreement, written or verbal, not to join, become, or remain a member of any lawful labor organization or association, as a condition of securing or retaining employment with such person, firm, or corporation. It shall be unlawful for any person, company, or corporation, or any officer or employee thereof, to coerce, require, or influence any person to contribute or pay to any person, company, or corporation, or any officer or employee thereof, any sum of money or other valuable thing for the sole purpose of securing or retaining employment with such person, firm, or corporation. It shall be unlawful for any two or more corporations or employers to combine, to agree to combine, or confer together for the purpose of interfering with any person in procuring, or in preventing him from procuring, employment, or to secure the discharge of any employee by threats, promises, circulating blacklists, or any other means whatsoever. It shall be unlawful for any company or corporation, or any agent or employee thereof, to blacklist any discharged employee, or by word or writing seek to prevent, hinder, or restrain a discharged employee, or one who has voluntarily left its employ, from obtaining employment elsewhere. Every person and corporation violating any of the foregoing provisions shall be guilty of a misdemeanor.

*History:* RL s 5097; 1921 c 389 s 1 (10378)

### PUBLIC EMPLOYMENT LABOR RELATIONS ACT OF 1971

#### 179.61 PUBLIC POLICY.

It is the public policy of this state and the purpose of sections 179.61 to 179.76 to promote orderly and constructive relationships between all public employers and their employees, subject however, to the paramount right of the citizens of this state to keep inviolate the guarantees for their health, education, safety and welfare.

The relationships between the public, the public employees, and their employer governing bodies imply degrees of responsibility to the people served, need of cooperation and employment protection which are different from employment in the private sector. So also the essentiality and public desire for some public services tend to create imbalances in relative bargaining power or the resolution with which either party to a disagreement presses its position, so that unique approaches to negotiations and resolutions of disputes between public employees and employers are necessary.

Unresolved disputes between the public employer and its employees are injurious to the public as well as to the parties; adequate means must therefore be established for minimizing them and providing for their resolution. Within the foregoing limitations and considerations the legislature has determined that overall policy may best be accomplished by:

(1) granting to public employees certain rights to organize and choose freely their representatives;

(2) requiring public employers to meet and negotiate with public employees in an appropriate bargaining unit and providing for written agreements evidencing the result of such bargaining; and

(3) establishing special rights, responsibilities, procedures and limitations regarding public employment relationships which will provide for the protection of the rights of the public employee, the public employer and the public at large.

**History:** *Ex1971 c 33 s 1; 1980 c 509 s 67*

### 179.62 CITATION.

Sections 179.61 to 179.76 shall be known and may be cited as the public employment labor relations act of 1971.

**History:** *Ex1971 c 33 s 2; 1980 c 509 s 68*

### 179.63 DEFINITIONS.

Subdivision 1. For the purposes of sections 179.61 to 179.76 the terms defined in this section have the meanings given them.

Subd. 2. "Director of mediation services" or "director" means the director of the bureau of mediation services established by section 179.02.

Subd. 3. "Board" means the Minnesota public employment relations board unless otherwise clearly stated.

Subd. 4. "Public employer" or "employer" means (a) the state of Minnesota in respect to employees of the state not otherwise provided for in this subdivision or section 179.74 for executive branch employees; (b) the board of regents of the University of Minnesota, in respect to employees thereof; and (c) notwithstanding sections 260.311, 384.08, 385.02, 386.33, 387.14, 388.10, 390.05, 487.10, or other law, the governing body of a political subdivision or agency or instrumentality thereof which has final budgetary approval authority, in respect to employees of that subdivision, agency or instrumentality, provided that the views of elected appointing authorities who shall have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of their rights and duties under section 179.61 to 179.76. When two or more units of government subject to the provisions of sections 179.61 to 179.76 undertake a project or form a new agency of government under chapter 402, or section 471.59, or other law authorizing common or joint action, the employer for purposes of sections 179.61 to 179.76 shall be the governing person or board of the created agency and the governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency pursuant to the procedures of sections 179.61 to 179.76. The term does not include a "charitable hospital" as defined in section 179.35, subdivision 2. Nothing in this subdivision shall be construed to diminish the authority granted pursuant to law to an appointing authority in respect to the selection, direction, discipline or discharge of an individual employee insofar as such action is consistent with general procedures and standards relating to selection, direction, discipline or discharge which are the subject of an agreement entered into pursuant to sections 179.61 to 179.76.

Subd. 5. "Employee organization" means any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment.

Subd. 6. "Exclusive representative" means an employee organization which has been designated by a majority of those votes cast in the appropriate unit and has been certified pursuant to section 179.67.

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.

Subd. 8. "Confidential employee" means any employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating or who actively participates in the meeting and negotiating on behalf of the public employer. Provided that when the reference is to executive branch employees of the state of Minnesota or employees of the regents of the University of Minnesota, "confidential employee" means any employee who has access to information subject to use by the public employer in collective bargaining or who actively participates in collective bargaining on behalf of the public employer.

Subd. 9. "Supervisory employee", when the reference is to other than essential employees as defined in subdivision 11, means any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend any of the aforesaid actions, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent

judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

Subd. 9a. "Supervisory employee", when the reference is to essential employees, means the administrative head and his assistant of a municipality, municipal utility, police or fire department, or any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

Subd. 10. "Professional employee" means:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes;

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(c) a teacher shall be deemed to be a professional employee.

Subd. 11. "Essential employee" means firefighters, peace officers subject to licensure pursuant to sections 626.84 to 626.855, guards at correctional facilities, and employees of hospitals other than state hospitals; provided that (1) with respect to state employees, "essential employee" means all employees in the law enforcement, health care professional, correctional guards, and supervisory collective bargaining units, irrespective of severance, and no other employees, and (2) with respect to University of Minnesota employees, "essential employee" means all employees in the law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. The term "firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires.

Subd. 12. "Strike" means concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment.

Subd. 13. "Teacher" means any person other than a superintendent or assistant superintendent, employed by a school district in a position for which the person must be licensed by the board of teaching or the state board of education or in a position as a physical therapist or an occupational therapist; and such employment does not come within the exceptions stated in subdivision 7, or defined in subdivision 8, 9, or 14.

Subd. 14. "Principal" and "assistant principal" means any person so licensed by the state board of education who devotes more than 50 percent of his time to administrative or supervisory duties.

Subd. 15. "Meet and confer" means the exchange of views and concerns between employers and their respective employees.

Subd. 16. "Meet and negotiate" means the performance of the mutual obligations of public employers and the exclusive representatives of public employees to meet at reasonable times, including where possible meeting in advance of the budget making process, with the good faith intent of entering into an agreement with respect to terms and conditions of employment; provided, that by such obligation neither party is compelled to agree to a proposal or required to make a concession.

Subd. 17. "Appropriate unit" or "unit" means a unit of employees, excluding supervisory employees, confidential employees and principals and assistant principals, as determined pursuant to section 179.71, subdivision 3, and in the case of school districts, the term means all the teachers in the district.

Subd. 18. The term "terms and conditions of employment" means the hours of employment, the compensation therefor including fringe benefits except retirement contributions or benefits, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the term does not mean educational policies of a school district. The terms in both cases are subject to the provisions of section 179.66 regarding the rights of public employers and the scope of negotiations.

Subd. 19. "Fair share fee challenge" means any proceeding or action instituted by a public employee, a group of public employees, or any other person, to determine their rights and obligations with respect to the circumstances or the amount of a fair share fee assessment authorized by section 179.65, subdivision 2.

**History:** *Ex 1971 c 33 s 3; 1973 c 349 s 2; 1973 c 635 s 1-6; 1974 c 127 s 1; 1975 c 321 s 2; 1976 c 102 s 1; 1978 c 776 s 1; 1978 c 789 s 1; 1979 c 332 art 1 s 58; 1980 c 345 s 15,16; 1980 c 509 s 69,70; 1980 c 617 s 19-21; 1981 c 289 s 2; 1982 c 588 s 1*

**NOTE:** The provisions of section 179.63, subdivision 11, shall not apply to the employees of the University of Minnesota hospitals. See Laws 1980, Chapter 614, Section 160.

### 179.64 STRIKES AUTHORIZED.

Subdivision 1. Except as otherwise provided by subdivision 1a and section 179.692, public employees, other than confidential, essential, managerial and supervisory employees and other than principals and assistant principals, may strike only under the following circumstances:

(1)(a) The collective bargaining agreement between their exclusive representative and their employer has expired or, if there is no agreement, impasse under section 179.692 has occurred; and

(b) The exclusive representative and the employer have participated in mediation over a period of at least 45 days, provided that the mediation period established by section 179.692 shall govern negotiations pursuant to that section. For the purposes of this sub-clause the mediation period commences on the day following receipt by the director of a request for mediation; and

(c) Written notification of intent to strike was served on the employer and the director by the exclusive representative on or after the expiration date of the collective bargaining agreement or, if there is no agreement, on or after the date impasse under section 179.692 has occurred and at least ten days prior to the commencement of the strike, provided that if more than 30 days have expired after service of a notification of intent to strike, no strike may commence until ten days after service of a new written notification; or

(2) The requirements of clause (1) have been satisfied and a request for binding arbitration has been rejected pursuant to section 179.69; or

(3) The employer violates section 179.68, subdivision 2, clause (9); or

(4) In the case of state employees,

(a) The legislative commission on employee relations has not given approval during a legislative interim to a negotiated agreement or arbitration award pursuant to section 179.74, subdivision 5, within 30 days after its receipt; or

(b) The entire legislature rejects or fails to ratify a negotiated agreement or arbitration award, which has been approved during a legislative interim by the legislative commission on employee relations, at a special legislative session called to consider it, or at its next regular legislative session, whichever occurs first.

Written notification of intent to strike, under clause (3) or (4), shall be served on the employer and the director by the exclusive representative at least ten days prior to the commencement of the strike, provided that if more than 30 days have expired after service of a notification of intent to strike, no strike may commence until ten days after service of a new written notification.

Subd. 1a. Except as otherwise provided by section 179.691, teachers employed by a local school district, other than principals and assistant principals, may strike only under the following circumstances:

(1)(a) The collective bargaining agreement between their exclusive representative and their employer has expired or, if there is no agreement, impasse under section 179.691 has occurred; and

(b) The exclusive representative and the employer have participated in mediation over a period of at least 60 days, 30 days of which have occurred after the expiration date of the collective bargaining agreement, provided that the mediation period established by section 179.691 shall govern negotiations pursuant to that section. For the purposes of this sub-clause the mediation period commences on the day following receipt by the director of a request for mediation; and

(c) Written notification of intent to strike was served on the employer and the director by the exclusive representative on or after the expiration date of the collective bargaining agreement or, if there is no agreement, on or after the date impasse under section 179.691 has occurred and at least ten days prior to the commencement of the strike, provided that if more than 30 days have expired after service of a notification of intent to strike, no strike may commence until ten days after service of a new written notification; and

(d) A request for binding arbitration has been rejected pursuant to section 179.69; or

(2) 45 days after impasse pursuant to section 179.69, subdivisions 3, 3a and 3b neither party has requested arbitration; or

(3) The employer violates section 179.68, subdivision 2, clause (9).

Written notification of intent to strike under clauses (2) and (3) shall be served on the employer and the director by the exclusive representative at least ten days prior to the commencement of the strike, provided that if more than 30 days have expired after service of a notification of intent to strike, no strike may commence until ten days after service of a new written notification, and further provided that notice of intent to strike under clause (2) shall be given no earlier than the last day of the period provided in clause (2).

Subd. 1b. Except as authorized in this section, all strikes by public employees shall be illegal. Except as provided in this section, no unfair labor practice or violation of sections 179.61 to 179.76 by a public employer shall give public employees a right to strike. Those factors may be considered, however, by the court in mitigation of or retraction of any penalties provided by this section.



During the period after contract expiration and prior to the date when the right to strike matures, and for additional time if agreed, the terms of an existing contract shall continue in effect and shall be enforceable upon both parties.

Subd. 2. Notwithstanding any other provision of law, any public employee who strikes in violation of the provisions of this section may have his appointment or employment terminated by the employer effective the date the violation first occurs. The termination shall be made by serving written notice upon the employee. Service may be made by certified mail.

Subd. 3. For purposes of this subdivision an employee who is absent from any portion of his work assignment without permission, or who abstains wholly or in part from the full performance of his duties without permission from his employer on the date or dates when a strike not authorized by this section occurs is prima facie presumed to have engaged in an illegal strike on the date or dates involved.

Subd. 4. A public employee who knowingly participates in a strike in violation of the provisions of this section and whose employment has been terminated pursuant to this section may subsequently be appointed or reappointed, employed or reemployed, but the employee shall be on probation for two years with respect to the civil service status, tenure of employment, or contract of employment to which he was previously entitled.

No employee shall be entitled to any daily pay, wages, reimbursement of expenses, or per diem for the days on which he engaged in a strike.

Subd. 5. Any public employee shall be entitled to request the opportunity to establish that he did not violate the provisions of this section. The request shall be filed in writing with the officer or body having the power to remove the employee, within ten days after notice of termination is served upon him. The employing officer or body shall within ten days commence a proceeding at which the employee shall be entitled to be heard for the purpose of determining whether the provisions of this section have been violated by the public employee. If there are contractual grievance procedures, laws or rules establishing proceedings to remove the public employee, the hearing shall be conducted in accordance with whichever procedure the employee elects provided that the election shall be binding and shall terminate any right to the alternative procedures. The same proceeding may include more than one employee's employment status if the employees' defenses are identical, analogous or reasonably similar. The proceedings shall be undertaken without unnecessary delay. Any person whose termination is sustained in the administrative or grievance proceeding may secure a review of his removal by serving a notice of appeal upon the employer removing him within 20 days after the results of the hearing have been announced. This notice, with proof of service thereof, shall be filed within ten days after service, with the clerk of the district court in the county where the employer has its principal office or in the county where the employee last was employed by the employer. The district court shall have jurisdiction to review the matter in the same manner as on appeal from administrative orders and decisions. This hearing shall take precedence over all matters before the court and may be held upon ten days written notice by either party. The court shall make such order as it deems proper. An employer may obtain review of a decision to reinstate an employee in the same manner as provided for appeals by employees in this subdivision. An appeal may be taken from the district court order to the supreme court.

Subd. 6. An employee organization which has been found pursuant to section 179.68 to have violated this section shall upon such finding lose its status, if any, as exclusive representative following such finding; and may not be so certified by the director for a period of two years following such finding; nor may

any employer deduct employee payments to any such organization for a period of two years.

Subd. 7. [Repealed, 1980 c 617 s 45]

**History:** *Ex 1971 c 33 s 4; 1973 c 635 s 7,8; 1979 c 332 art 1 s 59; 1980 c 617 s 22-26*

### 179.65 RIGHTS AND OBLIGATIONS OF EMPLOYEES.

Subdivision 1. Nothing contained in sections 179.61 to 179.76 shall be construed to limit, impair or affect the right of any public employee or his representative to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full faithful and proper performance of the duties of employment or circumvent the rights of the exclusive representative if there be one; nor shall it be construed to require any public employee to perform labor or services against his will. If no exclusive representative has been certified, any public employee individually, or group of employees through their representative, shall have the right of expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, by meeting with their public employer or his representative so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

Subd. 2. Public employees shall have the right to form and join labor or employee organizations, and shall have the right not to form and join such organizations. Public employees in an appropriate unit shall have the right by secret ballot to designate an exclusive representative for the purpose of negotiating grievance procedures and the terms and conditions of employment for such employees with the employer of such unit. All public employees who are not members of the exclusive representative may be required by said representative to contribute a fair share fee for services rendered by the exclusive representative in an amount equal to the regular membership dues of the exclusive representative, less the cost of benefits financed through the dues and available only to members of the exclusive representative, but in no event shall the fee exceed 85 percent of the regular membership dues. The exclusive representative shall provide advance written notice of the amount of the fair share fee assessment to the director, the employer and to a list furnished by the employer of all employees within the unit. A challenge by an employee or by a person aggrieved by the assessment shall be filed in writing with the director, the public employer, and the exclusive representative within 30 days after receipt of the written notice. All challenges shall specify those portions of the assessment challenged and the reasons therefor but the burden of proof relating to the amount of the fair share fee shall be on the exclusive representative. The employer shall deduct the fee from the earnings of the employee and transmit the fee to the exclusive representative 30 days after the written notice was provided, or, in the event a challenge is filed, the deductions for a fair share fee shall be held in escrow by the employer pending a decision by the director pursuant to section 179.71, subdivision 2.

Subd. 3. Public employees who are professional employees as defined by section 179.63, subdivision 10, have the right to meet and confer with public employers regarding policies and matters not included under section 179.63, subdivision 18, pursuant to section 179.73.

Subd. 4. Public employees through their certified exclusive representative have the right and obligation to meet and negotiate in good faith with their employer regarding grievance procedures and the terms and conditions of employ-

ment, but such obligation does not compel the exclusive representative to agree to a proposal or require the making of a concession.

Subd. 5. Public employees shall have the right to request and be allowed dues check off for the exclusive representative. In the absence of an exclusive representative, public employees shall have the right to request and be allowed dues check off for the organization of their choice.

Subd. 6. Except for confidential employees excluded from bargaining pursuant to sections 179.74, subdivision 4, and 179.741, supervisory and confidential employees, principals and assistant principals may form their own organizations. An employer shall extend exclusive recognition to a representative of or an organization of supervisory or confidential employees, or principals and assistant principals, for the purpose of negotiating terms or conditions of employment, in accordance with all other provisions of sections 179.61 to 179.76, as though they were essential employees. Supervisory or confidential employee organizations shall not participate in any capacity in any negotiations which involve units of employees other than supervisory or confidential employees. A supervisory or confidential employee organization which is affiliated, either directly or indirectly, with another employee organization which is the exclusive representative of non-supervisory or non-confidential employees of the same public employer or with a federation or other joint body of employee organizations, any one of whose affiliates is the exclusive representative of non-supervisory or non-confidential employees of the same public employer, shall not be certified as, or act as, an exclusive representative pursuant to sections 179.61 to 179.76 or section 179.742, except in the case of organizations of non-state, non-university of Minnesota essential supervisory employees as defined in section 179.63, subdivision 11.

Subd. 7. An exclusive representative shall have the right to petition the director for arbitration under section 179.69, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 179.69, subdivision 1.

**History:** *Ex1971 c 33 s 5; 1973 c 635 s 9-14; 1976 c 102 s 2; 1977 c 119 s 1; 1977 c 347 s 31; 1979 c 332 art 1 s 60; 1980 c 509 s 71; 1980 c 617 s 27*

### **179.66 RIGHTS AND OBLIGATIONS OF EMPLOYERS.**

Subdivision 1. A public employer is not required to meet and negotiate on matters of inherent managerial policy, which include, but are not limited to, such areas of discretion or policy as the functions and programs of the employer, its overall budget, utilization of technology, the organizational structure and selection and direction and number of personnel. No public employer shall sign an agreement which limits the right of the public employer to select persons to serve as supervisory employees or state managers pursuant to section 43A.18, subdivision 3 or requires the use of seniority in their selection.

Subd. 2. A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of the public employees in an appropriate unit regarding grievance procedures and the terms and conditions of employment, but such obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

Subd. 3. A public employer has the obligation to meet and confer with professional employees to discuss policies and those matters relating to their employment not included under section 179.63, subdivision 18, pursuant to section 179.73.

Subd. 4. A public employer has the obligation to meet and negotiate in good faith with the exclusive representative of the supervisory employees, confidential employees, principals and assistant principals, regarding grievance proce-

dures and the terms and conditions of their employment, but such obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

Subd. 5. Any provision of any contract required by section 179.70, which of itself or in its implementation would be in violation of or in conflict with any statute of the state of Minnesota or rule or regulation promulgated thereunder or provision of a municipal home rule charter or ordinance or resolution adopted pursuant thereto, or rule of any state board or agency governing licensure or registration of an employee, provided such rule, regulation, home rule charter, ordinance, or resolution is not in conflict with sections 179.61 to 179.66, shall be returned to the arbitrator for an amendment to make the provision consistent with the statute, rule, regulation, charter, ordinance or resolution.

Subd. 6. Nothing in sections 179.61 to 179.76 shall be construed to impair, modify or otherwise alter, or indicate a policy contrary to the authority of the legislature of the state of Minnesota to establish by law schedules of rates of pay for its employees or the retirement or other fringe benefits related to the compensation of such employees.

Subd. 7. The employer shall not meet and negotiate or meet and confer with any employee or group of employees who are at the time designated as a member or part of an appropriate employee unit except through the exclusive representative if one is certified for that unit or as provided for in section 179.69, subdivision 1, provided that this subdivision shall not be deemed to prevent the communication to the employer, other than through the exclusive representative, of advice or recommendations by professional employees, when such communication is a part of the employee's work assignment.

Subd. 8. An employer shall have the right to petition the director for arbitration under section 179.69, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 179.69, subdivision 1.

Subd. 9. An employer may hire and pay for arbitrators desired or required by the provisions of sections 179.61 to 179.76.

Subd. 10. A public employer must afford reasonable time off to elected officers or appointed representatives of the exclusive representative for the purposes of conducting the duties of the exclusive representative and must, upon request, provide for leaves of absence to elected or appointed officials of the exclusive representative.

**History:** *Ex1971 c 33 s 6; 1973 c 635 s 15-17; 1979 c 332 art 1 s 61; 1980 c 509 s 72,73,81; 1981 c 210 s 54; 1982 c 568 s 2*

### **179.67 EXCLUSIVE REPRESENTATION; ELECTIONS; DECERTIFICATION.**

Subdivision 1. Any employee organization holding formal recognition by order of the director or by employer voluntary recognition on the effective date of Extra Session Laws 1971, Chapter 33 under any law that is repealed by Extra Session Laws 1971, Chapter 33 is hereby certified as the exclusive representative until such time as it is decertified or another representative is certified in its place pursuant to sections 179.61 to 179.76. Any teacher organization as defined by section 125.20, subdivision 3 who on the effective date of Extra Session Laws 1971, Chapter 33 has a majority of its members on a teacher's council in a school district as provided in section 125.22 is hereby certified as the exclusive representative of all teachers of that school district until such time as the organization is decertified or another organization is certified in its place pursuant to sections 179.61 to 179.76.

Subd. 2. An employee organization may be certified as the exclusive representative of public employees in an appropriate unit upon complying with and qualifying under the provisions of this section.

Subd. 3. The director may certify an employee organization as an exclusive representative in an appropriate unit upon the joint request of the employer and the organization if, after investigation, he finds that no unfair labor practice was committed in initiating and submitting the joint request and that the employee organization does in fact represent over 50 percent of the employees in the appropriate unit. The provisions of this subdivision shall not in any case reduce the time period or nullify any bar to the employee organization's certification existing at the time of the filing of the joint request.

Subd. 4. Any employee organization may obtain a certification election upon petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner. Any employee organization may obtain a representation election upon petition to the director wherein it is stated that the currently certified representative no longer represents the majority of employees in an established unit and that at least 30 percent of the employees in the established unit wish to be represented by the petitioner rather than by the currently certified representative. An individual employee or group of employees in a unit may obtain a decertification election upon petition to the director wherein it is stated that the certified representative no longer represents the majority of the employees in an established unit and that at least 30 percent of the employees wish to be unrepresented.

Subd. 4a. The director shall not consider a petition for a decertification election during the effective term of a contract covering employees of the executive branch of the state of Minnesota except for a period for not more than 270 to not less than 210 days before its date of termination.

Subd. 5. The director shall, upon receipt of an employee organization's petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner or that the exclusive representative of a unit no longer represents the majority of the employees in the unit, investigate to determine if sufficient evidence of a question of representation exists and hold hearings as necessary to determine the appropriate unit and such other matters as may be necessary to determine the representation rights of the affected employees and employer.

Subd. 6. In determining the numerical status of an employee organization for purposes of subdivisions 2, 3, 4, and 8, the director shall require representation authorization signatures of affected employees as verification of the statements contained in the joint request or petitions. Such authorization signatures shall be privileged and confidential information available to the director only and shall be dated.

Subd. 7. An employee organization shall be certified as the exclusive representative of an appropriate unit upon receiving a majority of those votes cast in the appropriate unit at a certification election.

Subd. 8. The director shall issue his order providing for a secret ballot election by the employees in a designated appropriate unit. The election shall be held in the premises where those voting are employed unless the director shall determine that the election cannot be fairly held, in which case it shall be held at such a place as the director shall determine.

Subd. 9. The ballot in a certification election may contain as many names of representative candidates as have demonstrated that the candidate has 30 percent of the employees in the unit desiring it as their exclusive representative. The ballots shall, in every case, contain an appropriate space for employees to indicate that no representation is desired.

Subd. 10. The director shall provide for and count absentee ballots in all elections.

Subd. 11. If no choice on the ballot receives a majority of those votes cast in the unit, the director shall conduct a run off election wherein the ballot shall contain only the two choices receiving the greater number of votes.

Subd. 12. Upon a representative candidate receiving a majority of those votes cast in a unit, the director shall certify that representative candidate as the exclusive representative of all employees in the unit.

Subd. 13. Upon a finding by the director of an unfair labor practice being committed by an employer or representative candidate or an employee or group of employees, which unfair labor practice affected the result of an election held pursuant to this section, the director may void such election result and order a new election.

Subd. 14. Upon the director certifying an exclusive representative, he shall not consider the question again for a period of one year, unless the exclusive representative is decertified by a court of competent jurisdiction, or by the director as authorized by section 179.71.

**History:** *Ex1971 c 33 s 7; 1973 c 635 s 18-20; 1979 c 332 art 1 s 62; 1980 c 509 s 74; 1980 c 617 s 28*

## 179.68 UNFAIR PRACTICES.

Subdivision 1. The practices specified in this section are unfair practices. Any employee, employer, employee or employer organization, exclusive representative, or any other person or organization aggrieved by an unfair labor practice as defined in sections 179.61 to 179.76 may bring an action in district court of the county wherein the practice is alleged to have occurred for injunctive relief and for damages caused by such unfair labor practice.

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.

Subd. 3. Employee organizations, their agents or representatives, and public employees are prohibited from:

(1) restraining or coercing employees in the exercise of their rights as provided in sections 179.61 to 179.76;

(2) restraining or coercing a public employer in the election of his representatives to be employed for the purposes of meeting and negotiating or the adjustment of grievances;

(3) refusing to meet and negotiate in good faith with a public employer, if they have been designated in accordance with the provisions of sections 179.61 to 179.76 as the exclusive representative of employees in an appropriate unit;

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

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

(6) calling, instituting, maintaining or conducting a strike or boycott against any public employer on account of any jurisdictional controversy;

(7) coercing or restraining any person with the effect to:

(a) force or require any public employer to cease dealing or doing business with any other person or;

(b) force or require a public employer to recognize for representation purposes an employee organization not certified by the director;

(c) refuse to handle goods or perform services;

(d) preventing an employee from providing services to the employer;

(8) committing any act designed to damage or actually damaging physical property or endangering the safety of persons while engaging in a strike;

(9) forcing or requiring any employer to assign particular work to employees in a particular employee organization or in a particular trade, craft, or class rather than to employees in another employee organization or in another trade, craft or class;

(10) causing or attempting to cause a public employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed;

(11) engaging in an unlawful strike;

(12) picketing which has an unlawful purpose such as secondary boycott;

(13) picketing which unreasonably interferes with the ingress and egress to facilities of the public employer;

(14) seizing or occupying or destroying property of the employer;

(15) violating or refusing to comply with any lawful order or decision issued by the director of the board as authorized by sections 179.61 to 179.76.

**History:** *Ex1971 c 33 s 8; 1973 c 494 s 9; 1973 c 635 s 21; 1980 c 509 s 75; 1Sp1981 c 4 art 1 s 89*

### 179.69 PROCEDURES.

Subdivision 1. **Mediation petition.** When any employees or representative of employees shall desire to meet and negotiate an agreement establishing terms and conditions of employment, they shall give written notice to the employer and

the director, and it shall thereupon be the duty of the employer to recognize the employee representative for purposes of reaching agreement on terms and conditions of employment of the employees or the employer shall within ten days of receipt of the written notice object or refuse to recognize the employees' representative or the employees as an appropriate unit. The employer or employees' representative may thereupon petition the director to take jurisdiction of the matter whereupon the director shall then be authorized and shall perform those duties as provided in section 179.71, subdivision 2, clauses (a) and (b).

Upon the certified exclusive representative and the employer reaching agreement on terms and conditions of employment or receiving a valid arbitration award, they shall execute a written contract or memorandum of contract containing the terms of the negotiated agreement or arbitration award. The contracts or memoranda shall in every instance be subject to the provisions of section 179.70.

A petition by an employer shall be signed by him or his duly authorized officer or agent; and a petition by an exclusive representative shall be signed by its authorized officer. In either case the petition shall be served by delivering it to the director in person or by sending it by certified mail addressed to him at his office. The petition shall state briefly the nature of the disagreement of the parties. Upon receipt of a petition, the director shall fix a time and place for a conference with the parties to negotiate the issues not agreed upon in the matter, and he shall then take whatever steps he deems most expedient to bring about a settlement of the matter, including assisting in negotiating and drafting an agreement. It shall be the duty of all parties to respond to the summons of the director for joint or several conferences with him and to continue in such conference until excused by the director. However, for other than essential employees, mediation conferences following the expiration date of a collective bargaining agreement, or in the case of teachers following mediation over a period of 60 days after the expiration date of a collective bargaining agreement, shall continue only for durations agreeable to both parties.

**Subd. 2. Public meetings.** All negotiations, mediation sessions, and hearings between public employers and public employees or their respective representatives shall be public meetings except when otherwise provided by the director.

**Subd. 3. Binding arbitration petitions for non-essential employees.** For all public employees except those specified in subdivision 3a, the director shall certify a matter to the board for binding arbitration pursuant to section 179.72 if:

(a) the director has determined that further mediation efforts under subdivision 1 would serve no purpose and has certified an impasse, or impasse has occurred by reason of the fact that the exclusive representative and the employer have participated in mediation for the period required in section 179.64, subdivisions 1, 1a and 1b and the collective bargaining agreement has expired, and,

(b) within 15 days of a request by one party for binding arbitration the other party has accepted the request. A request for arbitration is deemed rejected if the other party has not responded within 15 days of the request.

**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.

**Subd. 3b. Procedure.** When the director has certified a matter to the board for binding arbitration pursuant to subdivision 3 or 3a, within 15 days the parties shall each submit their respective final positions on matters not agreed upon. The director shall determine the matters not agreed upon based on the positions



submitted by the parties and his efforts to mediate the dispute. Under a petition by either party the parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 4. [Repealed, 1980 c 617 s 45]

Subd. 5. [Repealed, 1980 c 617 s 45]

Subd. 6. [Repealed, 1980 c 617 s 45]

Subd. 7. [Repealed, 1973 c 635 s 37]

**History:** *Ex1971 c 33 s 9; 1973 c 635 s 22-24; 1974 c 114 s 1; 1974 c 128 s 1,2; 1980 c 617 s 29,30; 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:** *1980 c 617 s 31; 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:** *1980 c 617 s 32; 1Sp1981 c 4 art 2 s 15*

#### **179.70 CONTRACTS; GRIEVANCES; ARBITRATION.**

Subdivision 1. A written contract or memorandum of contract containing the agreed upon terms and conditions of employment and such other matters as

may be agreed upon by the employer and exclusive representative shall be executed by the parties. The duration of the contract shall be negotiable except in no event shall contracts be for a term exceeding three years. Any contract between employer school board and an exclusive representative of teachers shall in every instance be for a term of two years beginning on July 1 of each odd-numbered year. For contracts effective July 1, 1979 or thereafter, the written contract executed by an employer school board and an exclusive representative of teachers shall contain the teachers' compensation including fringe benefits for the entire two year term and shall not contain a wage reopening clause or any other provision for the renegotiation of the teachers' compensation for the second year of the contract. All contracts shall include a grievance procedure which shall provide compulsory binding arbitration of grievances including all disciplinary actions. In the event that the parties cannot reach agreement on the grievance procedure, they shall be subject to the grievance procedure promulgated by the director pursuant to section 179.71, subdivision 5, clause (i). Employees covered by civil service systems created pursuant to chapters 43, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, Chapter 423, may pursue a redress of their grievances through the grievance procedure established pursuant to this section. When the resolution of a grievance is also within the jurisdiction of appeals boards or appeals procedures created by chapters 43, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, Chapter 423, the aggrieved employee shall have the option of pursuing redress through the grievance procedure or the civil service appeals procedure, but once a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with his consent the employee's right to pursue redress in the alternative manner is terminated. This section does not require employers or employee organizations to negotiate on matters other than terms and conditions of employment as defined in section 179.63, subdivision 18.

Subd. 2. The employer shall implement the terms of the contract in the form of an ordinance or resolution. If the implementation of the terms of the contract require the adoption of a law, ordinance, or charter amendment, the employer shall make every reasonable effort to propose and secure the enactment of such law, ordinance, resolution, or charter amendment.

Subd. 3. In the event the employer and exclusive representative are bound by the terms of any arbitration decision of the arbitration panel or other terms established by operation of law, they shall execute a written contract or memorandum of contract containing the terms of such arbitration decision or such terms as are established by law. Upon execution of such contract, the employer shall implement its terms as required by subdivision 2.

Subd. 4. If the parties to a contract cannot agree upon an arbitrator or arbitrators as provided by the contract grievance procedures or the procedures established by the director, the parties shall, under direction of the chairman of the board, alternately strike names from a list of five arbitrators selected by the board until only one name remains which arbitrator shall make his decision regarding the grievance and it shall be binding upon the parties. The parties shall share equally the costs and fees of the arbitrator.

Subd. 5. All arbitration decisions authorized or required by a grievance procedure shall be subject to those limitations of arbitration decisions contained in section 179.72, subdivision 7. Further, upon rendering any arbitration decision authorized or required by a grievance procedure the arbitrator shall transmit both to the board and to the director a copy of his decision and any written explanation thereof. Should any issues submitted to arbitration be settled voluntarily before the arbitrator issues his decision, notice of such settlement shall be made by the arbitrator in a report issued both to the board and to the director.

Subd. 6. For purposes of this section, "grievance" means a dispute or disagreement as to the interpretation or application of any term or terms of any contract required by this section.

**History:** *Ex1971 c 33 s 10; 1973 c 635 s 25; 1974 c 247 s 1; 1978 c 619 s 1; 1978 c 764 s 100; 1979 c 50 s 20; 1979 c 183 s 1*

#### 179.71 DIRECTOR'S POWER, AUTHORITY AND DUTIES.

Subdivision 1. The director of mediation services is authorized to and shall perform those duties provided in this section.

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.

Subd. 3. The director shall determine appropriate units, except where appropriate units are defined by section 179.741. In determining the appropriate unit he shall take into consideration, along with other relevant factors, the principles and the coverage of uniform comprehensive position classification and compensation plans of the employees, involvement of professions and skilled crafts and other occupational classifications, relevant administrative and supervisory levels of authority, geographical location, and the recommendation of the parties, and shall place particular importance upon the history and extent of organization and the desires of the petitioning employee representatives.

In addition, with regard to the inclusion or exclusion of supervisory employees, the director must find that an employee may perform or effectively recommend a majority of those functions referred to in section 179.63, subdivision 9 or 9a, before an employee may be excluded as supervisory. However, in every case the administrative head, and his assistant, of a municipality, municipal utility, police or fire department shall be considered a supervisory employee.

He shall not designate an appropriate unit which includes employees subject to section 179.63, subdivision 11, with employees not included in section 179.63, subdivision 11.

Subd. 4. Public employers and exclusive representatives of employees may voluntarily participate in joint negotiations in similar or identical appropriate units. It is the policy of sections 179.61 to 179.76 to encourage such areawide negotiations and the director shall encourage it whenever possible.

Subd. 5. In addition to all other duties imposed by this section, the director shall:

(a) provide mediation services as requested by the parties for purposes of this subdivision until the parties reach agreement; provided, however, he may continue to assist parties after the parties have submitted their final positions as provided or required under section 179.72, subdivision 6; or section 179.69;

(b) issue notices, subpoenas and orders as may be required by law to carry out his duties under sections 179.61 to 179.76. Issuance of orders shall include those orders of the Minnesota public employment relations board;

(c) certify to the Minnesota public employment relations board those items of dispute between parties to be subject to the action of the Minnesota public employment relations board under section 179.69, subdivision 3;

(d) assist the parties in formulating petitions, notices, and other papers required to be filed with the director or the board;

(e) certify the final results of any election or other voting procedure conducted pursuant to sections 179.61 to 179.76;

(f) adopt reasonable and proper rules relative to and regulating the forms of petitions, notices, orders and the conduct of hearings and elections;

(g) receive, catalogue and file in a logical manner all orders and decisions of the Minnesota public employment relations board and all arbitration panels authorized by sections 179.61 to 179.76 as well as all grievance arbitration decisions and the director's own orders and decisions. All orders and decisions catalogued and filed shall be made readily available to the public;

(h) promulgate a grievance procedure to effectuate the purposes of section 179.70, subdivision 1. The grievance procedure shall not provide for the services of the bureau of mediation services. The exercise of authority granted by this clause shall be subject to the provisions of chapter 14. The grievance procedure shall be available to any public employee employed in a unit not covered by a contractual grievance procedure as contained in section 179.70, subdivision 1;

(i) conduct elections;

(j) assign state employee classifications and University of Minnesota employee classifications to the appropriate units provided in section 179.741, when the classifications have not been assigned pursuant to section 179.741, or have been significantly modified in occupational content subsequent to assignment pursuant to section 179.741, and assign supervisory employees to the appropriate units provided in section 179.741 when the positions have not been assigned pursuant to section 179.741 or have been significantly modified in occupational content. The assignment of the classes shall be made on the basis of the community of interest of the majority of employees in these classes with the employees within the statutory units, and all the employees in the class, excluding supervisory and confidential employees, shall be assigned to a single appropriate unit.

Subd. 6. The director may at the request of a certified exclusive representative or employer who is a party to a labor dispute render assistance in settling the dispute without the necessity of filing the petition referred to in section 179.69, subdivision 1. If the director takes mediation jurisdiction of the dispute as a result of such a request, he shall then proceed as provided in section 179.69.

Subd. 7. The director shall not furnish mediation services to any employees nor any employee representative who is not at the time certified as an exclusive representative.

Subd. 8. Hearings and mediation meetings authorized by this section shall be held in the county which best meets the conveniences of the witnesses, but such hearings may be held at a time and place as is agreed to by the petitioner and those parties affected by the petition.

**History:** *Ex1971 c 33 s 11; 1973 c 635 s 26,27; 1976 c 102 s 3; 1980 c 509 s 76-78; 1980 c 615 s 35; 1980 c 617 s 33,34; 1981 c 356 s 329; 1982 c 424 s 130*

## **179.72 PUBLIC EMPLOYMENT RELATIONS BOARD; POWERS AND DUTIES; ARBITRATION.**

Subdivision 1. There is hereby established a public employment relations board with the powers and duties assigned to it by this section. The board shall consist of five members appointed by the governor of the state of Minnesota with the advice and consent of the senate. Two members shall be representative of public employees; two shall be representative of public employers; and one shall be representative of the public at large. Public employers and employee organizations representing public employees may submit for consideration names of

persons representing their interests to serve as members of the board. The board shall select one of its members to serve as chairman for a term beginning May 1 each year.

Subd. 1a. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 2. The board shall adopt its own rules governing its procedure and shall hold regular and special meetings as are prescribed in such rules. The chairman shall preside at meetings of the board.

Subd. 3. In addition to the other powers and duties given it by law, the board has the following powers and duties:

(a) to hear and decide issues relating to the meaning of the terms "supervisory employee", "confidential employee", "essential employee" or "professional employee", as defined by section 179.63;

(b) to hear and decide appeals from determinations of the director relating to the appropriateness of a unit under section 179.67;

(c) to hear and decide on the record from determinations of the director relating to a fair share fee challenge decided under section 179.71, subdivision 2.

Subd. 4. The board shall adopt rules pursuant to chapter 14 governing the presentation of issues relating to matters included in subdivision 3; and the taking of such appeals. All issues and appeals presented to the board shall be determined upon the record established by the director of mediation, except that the board at its discretion may request additional evidence when necessary or helpful.

Subd. 5. The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list of such persons the board shall, to the maximum extent possible, select persons from varying geographical areas of the state.

Subd. 6. When final positions are certified to the board as provided in section 179.69, the board shall constitute an arbitration panel as follows:

The parties shall, under the direction of the chairman of the board, alternately strike names from a list of seven arbitrators until only three names remain, which three members shall be members of the panel; provided, however, that if either party requests the parties shall select a single arbitrator to hear the dispute. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. In submitting names of arbitrators to the parties the board shall endeavor whenever possible to include names of persons from the general geographical area in which the public employer is located. The panel shall assume and have jurisdiction over the items of dispute certified to the board for which the panel was constituted. The panel's orders shall be issued upon a majority vote of members considering a given dispute. The members of the panel shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties plus a per diem allowance of \$180 for each day or part thereof while engaged in the consideration of a dispute. All fees, expenses and costs of the panel shall be shared and assessed equally to the parties to the dispute. In those cases where a single arbitrator is hearing a dispute, the fees, expenses and costs of the arbitrator shall also be shared and assessed equally by the parties to the dispute.

Subd. 7. The arbitration panel or arbitrator selected by the parties shall resolve the issues in dispute between the parties as submitted by the board, and the panel's decision and order shall be final and binding upon the parties. The panel shall be restricted, if the parties agree in writing to so limit the panel's jurisdiction, except as provided by subdivision 7b to selecting between the final offers on each

impasse item submitted by the parties to the panel, or the final offer of one or the other party in its entirety. Provided, however, that no decision of the panel which violates any provision of the laws of Minnesota or rules or regulations promulgated thereunder or municipal charters or ordinances or resolutions enacted pursuant thereto, or which causes a penalty to be incurred thereunder, shall have any force or effect. In considering a dispute and issuing its order the panel shall give due consideration to the statutory rights and obligations of public employers to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The panel's orders shall be issued by a majority vote of its members considering a given dispute. The panel shall have no jurisdiction over nor authority to entertain any matter or issue not within the definition stated in section 179.63, subdivision 18; provided, however, items not within terms and conditions of employment may be included in an arbitration decision if such items are contained in the employer's final position. Any issue or order or part thereof issued by the panel determining any matter not included under section 179.63, subdivision 18 or the employer's final position shall be void and of no effect. The panel shall render its decision within ten days from the date that all arbitration proceedings have been concluded, but in any event must issue its order by the last date the employer is required by statute, charter, ordinance or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The panel's order shall be for such period as the panel shall direct, except that orders determining contracts for teacher units shall be effective to the end of the contract period as determined by section 179.70, subdivision 1.

Subd. 7a. [Repealed, 1982 c 568 s 14]

Subd. 7b. Notwithstanding the provisions of subdivision 7, for supervisory employees, confidential employees, and principals and assistant principals who are not employees of the executive branch of the state of Minnesota, the panel shall be restricted to selecting between the final offers on each impasse item submitted by the parties to the panel.

Subd. 8. The arbitration panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. The panel may administer oaths and affidavits, and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing; provided, however, the panel's meeting shall be held in the county in which the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business shall on application of the panel have jurisdiction to issue to such person an order requiring such person to appear before the panel, there to produce evidence as so ordered, or there to give testimony touching the matters in issue, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Subd. 9. Upon issuing its decision and order involving any dispute, the panel shall transmit the order and any written decision explaining the order to the board and to the director and to the appropriate representative or officer of the public employer and the employees. Should any issues submitted to arbitration be settled voluntarily before the arbitrator issues his decision, notice of such settlement shall be made by the arbitrator in a report issued both to the board and to the director.

Subd. 10. At the request of the exclusive representative to a dispute involving any essential employees, the board shall proceed in accordance with this section and the order shall be binding on both parties. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 11. [Repealed, 1973 c 635 s 37]

Subd. 12. The parties to an arbitration proceeding may at any time prior to or after issuance of an order of the arbitration panel, agree and settle upon terms and conditions of employment regardless of the terms and conditions of employment determined by the order. The parties shall, if so agreeing and settling, execute a written contract or memorandum of contract pursuant to section 179.70, subdivision 1.

Subd. 13. [Repealed, 1973 c 635 s 37]

**History:** *Ex1971 c 33 s 12; 1973 c 635 s 28-31; 1974 c 246 s 1; 1974 c 247 s 2; 1976 c 102 s 4; 1976 c 134 s 45-47; 1977 c 284 s 1; 1979 c 332 art 1 s 63,64; 1979 c 333 s 90; 1980 c 615 s 36; 1980 c 617 s 35; 1982 c 424 s 130; 1982 c 568 s 3,4*

**NOTE:** Subdivision 7b expires July 1, 1983, but shall apply to all arbitration proceedings which are to determine contractual provisions for the next period. See Laws 1980, Chapter 617, Section 44, as amended by Laws 1982, Chapter 568, Section 6.

### 179.73 POLICY CONSULTANTS.

Subdivision 1. The legislature recognizes that professional employees possess knowledge, expertise, and dedication which is helpful and necessary to the operation and quality of public services and which may assist public employers in developing their policies. It is, therefore, the policy of this state to encourage close cooperation between public employers and professional employees by providing for discussions and the mutual exchange of ideas regarding all matters not specified under section 179.63, subdivision 18.

Subd. 2. The professional employees shall select a representative to meet and confer with a representative or committee of the public employer on matters not specified under section 179.63, subdivision 18 relating to the services being provided to the public. The public employer shall provide the facilities and set the time for such conferences to take place, provided that the parties shall meet together at least once every four months.

Subd. 3. [Repealed, 1973 c 635 s 37]

Subd. 4. [Repealed, 1973 c 635 s 37]

Subd. 5. [Repealed, 1973 c 635 s 37]

**History:** *Ex1971 c 33 s 13; 1973 c 35 s 41; 1973 c 635 s 32*

### 179.74 STATE AND ITS EMPLOYEES; NEGOTIATIONS; APPROPRIATE UNITS.

Subdivision 1. For purposes of this section the term "appointing authority" has the meaning given it by section 43A.02, subdivision 5.

Subd. 2. The employer of state employees shall be, for purposes of sections 179.61 to 179.76, the commissioner of employee relations or his representative.

Subd. 3. In all negotiations between the state and exclusive representatives the state shall be represented by the commissioner of employee relations or his representative. The attorney general, and each appointing authority shall cooperate with the commissioner of employee relations in conducting negotiations and shall make available any personnel and other resources as are necessary to enable the commissioner to conduct effective negotiations.

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 43A.18, subdivision 3 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 43A.17, subdivision 4, 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 positions of employees whose classification is pilot or chief pilot, 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.

Subd. 5. The commissioner of employee relations is authorized to and may enter into agreements with exclusive representatives of the units specified in section 179.741, subdivision 1. The provisions of the negotiated agreements and arbitration awards shall be submitted to the legislature to be accepted or rejected in accordance with this section and section 3.855. In the event that a proposed agreement or arbitration award is rejected or is not approved by the legislature prior to its adjournment in an odd numbered year, the legislative commission on employee relations is authorized to give interim approval to a proposed agreement or arbitration award. The proposed agreement or arbitration award shall be implemented upon its approval by the commission and state employees covered by the proposed agreement or arbitration award shall not have the right to strike while the interim approval is in effect. The commission shall submit the agreement or arbitration award to the legislature for ratification at a special legislative session called to consider it or at its next regular legislative session. Wages and economic fringe benefit increases provided for in the agreement or arbitration award which were paid pursuant to the interim approval by the commission shall not be affected but such wages and benefit increases shall cease to be paid or provided effective upon the rejection of the agreement or arbitration award or upon adjournment by the legislature without acting upon the agreement or arbitration award.

**History:** *Ex1971 c 33 s 14; 1973 c 507 s 39,45; 1973 c 635 s 33-35; 1975 c 381 s 20; 1976 c 2 s 71; 1977 c 206 s 1; 1977 c 452 s 31; 1979 c 332 art 1 s 65,66; 1980 c 509 s 79,80; 1980 c 615 s 60; 1980 c 617 s 36-39; 1981 c 210 s 54; 1981 c 346 s 138; 1982 c 459 s 1*

#### **179.741 STATE AND UNIVERSITY OF MINNESOTA EMPLOYEES; APPROPRIATE UNITS.**

Subdivision 1. **State employees.** Subject to the provisions of section 179.742, subdivision 5, all appropriate units of state employees certified as of April 25, 1980 are abolished. The following shall be the appropriate units of executive branch state employees for the purposes of sections 179.61 to 179.76. All units shall exclude employees excluded by section 179.74, subdivision 4 and supervisory



employees shall only be assigned to units 12 and 16. Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. No additional units of executive branch state employees shall be recognized for the purpose of meeting and negotiating.

(1) Law enforcement unit. This unit shall consist of all sworn state patrol personnel, all uniformed conservation officers, and all criminal apprehension agents.

(2) Craft, maintenance, and labor unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(3) Service unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(4) Health care non-professional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(5) Health care 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 those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(7) Technical unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(8) Correctional Guards unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(9) State university instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(10) Community college instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(11) State university administrative unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(12) Professional engineering supervisory unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(13) Health treatment unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(14) General professional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(15) Professional state residential instructional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

(16) Supervisory employees unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through June 16, 1981.

**Subd. 2. State employee severance.** Each of the following groups of employees shall have the right, as specified in this subdivision, to separate from the general professional, health treatment or general supervisory units provided for in subdivision 1: attorneys, physicians, professional employees of the higher education coordinating board who are compensated pursuant to section 43A.18, subdivision 4, state patrol-supervisors, and criminal apprehension investigative-supervisors. This right shall be exercised by petition during the period commencing on April 25, 1980 and concluding 30 days after that date or, after January 1, 1981, during the 60 day period commencing 270 days prior to the termination of a contract covering the units. If one of these groups of employees exercises the right to separate from the units they shall have no right to meet and negotiate, but shall retain the right to meet and confer with the commissioner of employee relations and with the appropriate appointing authority on any matter of concern to them. The manner of exercise of the right to separate shall be as follows: An employee organization or group of employees claiming that a majority of any one of these groups of employees on a state-wide basis wish to separate from their units may petition the director for an election during the petitioning period. If the petition is supported by a showing of at least 30 percent support for the petitioner from the employees, the director shall hold an election to ascertain the wishes of the majority with respect to the issue of remaining within or severing from the units provided in subdivision 1. This election shall be conducted within 30 days of the close of the petition period. If a majority of votes cast endorse severance from the unit in favor of separate meet and confer status for any one of these groups of employees, the director shall certify that result. This election shall, where not inconsistent with other provisions of this section, be governed by section 179.67. If a group of employees elects to sever they may rejoin that unit by following the same procedures specified above for severance, but may only do so during the periods provided for severance.

**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.

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(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.

(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, Crookston 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 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.

**Subd. 4. University of Minnesota employee severance.** Each of the following groups of University of Minnesota employees shall have the right, as specified in this subdivision, to separate from the instructional and supervisory units provided for in subdivision 3: (1) health sciences instructional employees at all campuses with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, (2) instructional employees of the law school with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, (3) instructional supervisors, and (4) non-instructional professional supervisors. This right shall be exercised by petition during the period commencing on April 25, 1980 and concluding 60 days after that date or, after January 1, 1981, during the period between September 1 and November 1. If one of these groups of employees exercises the right to separate from their unit they shall have no right to meet and negotiate, but shall retain the right to meet and confer with the appropriate officials on any matter of concern to them. The manner of exercise of the right to separate shall be as follows: An employee organization or group of employees claiming that a majority of any one of these groups of employees on a state-wide basis wish to separate from their unit may petition the director for an election during the petitioning period. If the petition is supported by a showing of at least 30 percent support for the petitioner from the employees, the director shall hold an election to ascertain the wishes of the majority with respect to the issue of remaining within or severing from their unit provided in subdivision 3. This election shall be conducted within 30 days of the close of the petition period. If a majority of votes cast endorse severance from their unit in favor of meet and confer status for any one of these groups of employees, the director shall certify that result. This election shall, where not inconsistent with other provisions of this section, be governed by section 179.67. If a group of employees elects to sever they may rejoin that unit by following the same procedures specified above for severance, but may only do so during the periods provided for severance.

**History:** 1980 c 617 s 40; 1981 c 37 s 2; 1981 c 70 s 1; 1981 c 210 s 54; 1982 c 459 s 2

#### **179.7411 LIMITATION ON THE CONTRACTING-OUT OF SERVICES PROVIDED BY MEMBERS OF A STATE OF MINNESOTA OR UNIVERSITY OF MINNESOTA BARGAINING UNIT.**

Any contract entered into after March 23, 1982 by the state of Minnesota or the University of Minnesota involving services, any part of which, in the absence of the contract, would be performed by members of a unit provided in section 179.741, subdivision 1 or 3, shall be subject to section 16.07 and shall provide for the preferential employment by such a party of members of that unit whose employment with the state of Minnesota or the University of Minnesota is terminated as a result of that contract.

**History:** 1982 c 560 s 64

#### **179.742 TRANSITION TO NEW BARGAINING UNIT STRUCTURE FOR STATE AND UNIVERSITY OF MINNESOTA EMPLOYEES.**

**Subdivision 1. Application of section.** Notwithstanding section 179.65, subdivision 2, or any other law, this section shall govern, where contrary to other

law, the initial certification and decertification, if any, of exclusive representatives for the appropriate units of state employees and University of Minnesota employees established by section 179.741. Subsequent to the initial certification and decertification, if any, pursuant to this section, the provisions of this section shall not apply.

**Subd. 2. Existing majority.** The director shall certify an employee organization as exclusive representative for an appropriate unit established by section 179.741 upon a petition filed with the director by the organization within 30 days of April 25, 1980 for state employees and within 180 days of April 25, 1980 for University of Minnesota employees stating that the petitioner is certified pursuant to section 179.67 as the exclusive representative of a majority of the employees included within the unit established by section 179.741 on April 25, 1980. Two or more employee organizations which represent the employees in a unit established by section 179.741, may petition jointly pursuant to this subdivision, provided that any organization may withdraw from a joint certification in favor of the remaining organization or organizations on 30 days notice to the remaining organization or organizations, the employer, and the director without effect upon the rights and obligations of the remaining organization or organizations or the employer. The director shall make a determination on a timely petition within 45 days of its receipt.

**Subd. 3. No existing majority.** (1) If no exclusive representative is certified under subdivision 2, the director shall certify an employee organization as exclusive representative for an appropriate unit established by section 179.741 upon a petition filed by the organization within the time period provided in subdivision 2, stating that the petitioner is certified pursuant to section 179.67 as the exclusive representative of fewer than a majority of the employees included within the unit established by section 179.741, where no other employee organization so certified has filed a petition within the time period provided in subdivision 2 so long as a majority of the employees in the unit established by section 179.741 are represented by employee organizations pursuant to section 179.67 on April 25, 1980. Two or more employee organizations, each of which represents employees included in the unit established by section 179.741 may petition jointly pursuant to this clause, provided that any organization may withdraw from a joint certification in favor of the remaining organization or organizations on 30 days notice to the remaining organization or organizations, the employer, and the director without effect upon the rights and obligations of the remaining organization or organizations or the employer. The director shall make a determination on a timely petition within 45 days of its receipt.

(2) If no exclusive representative is certified under subdivision 2 or subdivision 3, clause (1), and an employee organization petitions the director within 45 days of April 25, 1980 for state employees and within 195 days of April 25, 1980 for University of Minnesota employees stating that at least 30 percent of the employees included within a unit established by section 179.741 wish to be represented by the petitioner, where this 30 percent is evidenced by current dues deduction rights, signed statements plainly indicating that the signatories wish to be represented for collective bargaining purposes by the petitioner rather than by any other organization, or a combination thereof, the director shall conduct a secret ballot election to determine the wishes of the majority. The election shall be conducted within 75 days of April 25, 1980 for state employees and within 225 days of April 25, 1980 for University of Minnesota employees and shall, where not inconsistent with other provisions of this section, be governed by section 179.67.

**Subd. 4. Decertification.** Prior to January 1, 1981 the director shall consider a petition for decertification of an exclusive representative certified under this section only when the petition is filed within 60 days of the initial certification

and only when the certification was made pursuant to subdivision 2 or 3, clause (1). The petition shall be considered under the provisions of section 179.67 except where they are inconsistent with this subdivision.

Subd. 5. **Contract and representation responsibilities.** Notwithstanding the provisions of section 179.741, the exclusive representatives of units of state employees and University of Minnesota employees certified prior to April 25, 1980 shall remain responsible for administration of their contracts and for all other contractual duties and shall enjoy the right to dues and fair share fee deduction and all other contractual privileges and rights until June 30, 1981. Exclusive representatives of state employees and University of Minnesota employees certified after April 25, 1980 shall immediately upon certification have the responsibility of bargaining on behalf of employees within the unit. They shall also have the responsibility of administering grievances arising under previous contracts covering employees included within the unit which remain unresolved on June 30, 1981. Where the employer does not object, these responsibilities may be varied by agreement between the outgoing and incoming exclusive representatives. All other rights and duties of representation shall commence on July 1, 1981, except that exclusive representatives certified after April 25, 1980 shall immediately upon certification have the right to all employer information and all forms of access to employees within the bargaining unit which would be permitted to the current contract-holder. This section shall in no way affect any existing collective bargaining contract. Should an exclusive bargaining agent not be certified for the unit provided for in section 179.741, subdivision 3, clause (2), the employees assigned to that unit shall continue to be compensated pursuant to the appropriate University of Minnesota civil service rules, or by the terms of any master or uniform contract of their particular trade which exists between associations of employers in their local area representing all or substantially all of the employees of that trade.

Nothing in Laws 1980, Chapter 617, Sections 1 to 42 shall prevent an exclusive representative certified after the effective date of Laws 1980, Chapter 617, Sections 1 to 42 from assessing fair share or dues deductions immediately upon certification for employees in a unit established under section 179.741 if the employees were unrepresented for collective bargaining purposes prior to that certification.

**History:** 1980 c 617 s 41

### 179.743 STATE EMPLOYEES.

When no prior determination has been made with respect to the supervisory status of a state employee or his predecessor and no agreement can be reached between the employer and petitioning employee organizations, the commissioner of employee relations may petition the director for a determination. When no agreement can be reached between the employer and petitioning employee organizations on the confidential status of a state employee, the commissioner of employee relations may petition the director for a determination. The commissioner shall serve a copy of the petition on the exclusive representatives of the affected employees. The director shall not exclude any supervisory or confidential employee from an appropriate unit of nonsupervisory or nonconfidential state employees on the basis of a petition filed later than 30 days after April 25, 1980, except as provided in section 179.71, subdivision 5. The director shall make all determinations under this subdivision within 60 days of receipt of a timely petition. The director shall have full discretion in his determination of the application of sections 179.63, subdivisions 8, 9, and 9a, and 179.71, subdivision 3, paragraph two in all cases arising under this subdivision. Notwithstanding any other law, his decision shall be final and no appeal whatsoever shall be heard.

For the purposes of the certification of a bargaining agent for units provided in section 179.741, subdivision 1 employees sought to be excluded by a timely and valid petition as supervisory or confidential shall be counted or shall vote separately in a fashion which shall permit them to be individually excluded or included after a determination as to their status. When a certification is dependent upon challenged employees, the director shall determine the status of the challenged employees prior to deciding the cases of challenged employees whose status need not be determined for a certification. In the latter situation the certification of a bargaining agent shall proceed irrespective of pending challenges.

**History:** 1980 c 617 s 42

#### **179.75 APPLICATION OF SECTIONS 185.07 TO 185.19.**

Subdivision 1. [Repealed, 1973 c 635 s 37]

Subd. 2. [Repealed, 1973 c 635 s 37]

Subd. 3. [Repealed, 1973 c 635 s 37]

Subd. 4. [Repealed, 1973 c 635 s 37]

Subd. 5. [Repealed, 1973 c 635 s 37]

Subd. 6. [Repealed, 1973 c 635 s 37]

Subd. 7. [Repealed, 1973 c 635 s 37]

Subd. 8. Minnesota Statutes 1971, Sections 185.07 to 185.19, shall apply to all public employees, including those specifically excepted from the definition of public employee in section 179.63, subdivision 7, except as sections 185.07 to 185.19 may be inconsistent with section 179.68.

Subd. 9. [Repealed, 1973 c 635 s 37]

**History:** Ex1971 c 33 s 15; 1973 c 635 s 36

#### **179.76 INDEPENDENT REVIEW.**

It shall be the public policy of the state of Minnesota that every public employee should be provided with the right of independent review, by a disinterested person or agency, of any grievance arising out of the interpretation of or adherence to terms and conditions of employment. When such review is not provided under statutory, charter, or ordinance provisions for a civil service or merit system, the governmental agency may provide for such review consistent with the provisions of law or charter. If no other procedure exists for the independent review of such grievances, the employee may present his grievance to the public employment relations panel under procedures established by the board.

**History:** Ex1971 c 33 s 16

**179.77** [Repealed, 1973 c 635 s 37]