

## CHAPTER 3

### LEGISLATURE

3.198	Repealed.	3.855	Legislative commission on employee relations.
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3.305	Legislative coordinating commission; bicameral legislative administration.	3.873	Legislative commission on children, youth, and their families.
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3.7371	Compensation for crop damage caused by elk.	3.882	Repealed.
3.842	Review of rules by commission.	3.885	Legislative commission on planning and fiscal policy.
3.843	Public hearings by state agencies.	3.922	Indian affairs council.
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**3.198** [Repealed, 1Sp1995 c 3 art 9 s 42]

#### PROFESSIONAL AND TECHNICAL SERVICES CONTRACTS

##### **3.225 PROFESSIONAL AND TECHNICAL SERVICE CONTRACTS.**

**Subdivision 1. Application.** This section applies to a contract for professional or technical services entered into by the house of representatives, the senate, the legislative coordinating commission, or any group under the jurisdiction of the legislative coordinating commission. For purposes of this section, "professional or technical services" contract has the meaning defined in section 16B.17.

**Subd. 2. Requirements for all contracts.** Before entering into a contract for professional or technical services, the contracting entity must determine that:

- (1) all provisions of section 16B.19, subdivision 2, have been verified or complied with;
- (2) the work to be performed under the contract is necessary to the entity's achievement of its responsibilities;
- (3) the contract will not establish an employment relationship between the state or the entity and any persons performing under the contract;
- (4) no current legislative employees will engage in the performance of the contract;
- (5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract;
- (6) the contracting entity has specified a satisfactory method of evaluating and using the results of the work to be performed; and
- (7) the combined contract and amendments will not extend for more than five years.

**Subd. 3. Contracts over \$5,000.** Before an entity may seek to enter into a professional or technical services contract valued in excess of \$5,000, it must determine that:

- (1) no current legislative employee is able and available to perform the services called for by the contract;
- (2) reasonable efforts were made to publicize the availability of the contract to the public;
- (3) the entity has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract; and
- (4) the entity has developed, and fully intends to implement, a written plan providing for: the assignment of personnel to a monitoring and liaison function; the periodic review of interim reports or other indications of past performance; and the ultimate utilization of the final product of the services.

**Subd. 4. Renewals.** The renewal of a professional or technical service contract must comply with all requirements, including notice, applicable to the original contract. A renew-

al contract must be identified as such. All notices and reports on a renewal contract must state the date of the original contract and the amount previously paid under the contract.

**Subd. 5. Reports.** (a) The house of representatives, the senate, and the legislative coordinating commission shall submit to the legislative reference library a monthly listing of all contracts for professional or technical services executed in the preceding month. The report must identify the parties and the contract amount, duration, and tasks to be performed.

(b) The monthly report must:

- (1) be sorted by contracting entity and by contractor;
- (2) show the aggregate value of contracts issued by each agency and issued to each contractor;
- (3) distinguish between contracts that are being issued for the first time and contracts that are being renewed;
- (4) state the termination date of each contract; and
- (5) categorize contracts according to subject matter, including topics such as contracts for training, contracts for research and opinions, and contracts for computer systems.

(c) Within 30 days of final completion of a contract over \$40,000 covered by this subdivision, the chief executive of the entity entering into the contract must file a one-page performance report with the legislative reference library. The report must:

- (1) summarize the purpose of the contract, including why it was necessary to enter into a contract;
- (2) state the amount spent on the contract; and
- (3) explain why this amount was a cost-effective way to enable the entity to provide its services or products better or more efficiently.

**Subd. 6. Contract terms.** (a) A professional or technical services contract must by its terms permit the contracting entity to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the entity determines that further performance under the contract would not serve entity purposes. If the final product of the contract is a written report, a copy must be filed with the legislative reference library.

(b) The terms of a contract must provide that no more than 90 percent of the amount due under the contract may be paid until the final product has been reviewed by the person entering into the contract on behalf of the contracting entity, and that person has certified that the contractor has satisfactorily fulfilled the terms of the contract.

**History:** 1995 c 254 art 1 s 35

### **3.303 LEGISLATIVE COORDINATING COMMISSION; CREATION AND ORGANIZATION.**

*[For text of subs 1 to 4, see M.S.1994]*

**Subd. 5.** The commission shall represent the legislature and assist state agencies to make arrangements to accommodate and appropriately recognize individuals or groups visiting Minnesota as direct or indirect representatives of foreign governments, other states, or subdivisions or agencies of foreign governments or other states and to provide other services determined by the commission.

**Subd. 6.** The commission may make grants, employ an executive director and other staff, and obtain office space, equipment, and supplies necessary to perform its duties.

**History:** 1995 c 248 art 2 s 1

### **3.304 OFFICE OF LEGISLATIVE RESEARCH.**

*[For text of subd 1, see M.S.1994]*

**Subd. 2.** [Repealed, 1995 c 248 art 2 s 8]

*[For text of subs 2a to 5, see M.S.1994]*

**3.305 LEGISLATIVE COORDINATING COMMISSION; BICAMERAL LEGISLATIVE ADMINISTRATION.**

Subdivision 1. **Definitions.** (a) "Legislative commission" means a joint commission, committee, or other entity in the legislative branch composed exclusively of members of the senate and the house of representatives.

(b) "Joint offices" means the revisor of statutes, legislative reference library, the office of legislative auditor, and any other joint legislative service office.

Subd. 1a. **Approval of budgets; compensation.** The budget request of a legislative commission or joint office shall be submitted to the legislative coordinating commission for review and approval before its submission to the appropriate fiscal committees of the senate and the house of representatives. In reviewing the budgets, the legislative coordinating commission shall evaluate and make recommendations on how to improve the efficiency and effectiveness of bicameral support functions and services and on whether there is a continuing need for the various legislative commissions. The executive director of the legislative coordinating commission shall recommend and the commission shall establish the compensation of all employees of any legislative commission or joint office, except classified employees of the legislative audit commission.

Subd. 2. **Transfers.** The legislative coordinating commission may transfer unobligated balances among general fund appropriations to the legislature.

Subd. 3. **Employees.** All employees of legislative commissions and joint offices are employees of the legislature in the unclassified service of the state, except classified employees in the legislative auditor's office.

Subd. 4. **Administrative staff for commissions.** The executive director of the legislative coordinating commission shall provide and manage office space and equipment and hire, supervise, and manage all administrative, clerical, and secretarial staff for all legislative commissions, except the legislative advisory commission and the legislative audit commission.

Subd. 5. **Geographic information systems.** The executive director of the legislative coordinating commission shall maintain a geographic information systems office. The office shall maintain the data, facilities, and technical capacity to draw electoral district boundaries. The legislative coordinating commission shall establish procedures to provide members of the house and senate with geographic information and mapping services on request.

Subd. 6. **Bicameral working groups.** The legislative coordinating commission may establish joint commissions, committees, subcommittees, task forces, and similar bicameral working groups to assist and advise the coordinating commission in carrying out its duties. The customary appointing authority in each house shall appoint the members of any such entity. The coordinating commission may delegate to an entity, in writing, specific powers and duties of the coordinating commission. All entities established by the commission under this subdivision expire on January 1 of each odd-numbered year, unless renewed by affirmative action of the commission.

Subd. 7. **Membership on legislative commissions.** The appointment of a member to a legislative commission, except a member serving ex officio, is rendered void by three unexcused absences of the member from the meetings of the commission. If an appointment becomes void, the legislative commission shall notify the appointing authority of this and request another appointment.

**History:** 1995 c 248 art 2 s 2

**3.732 SETTLEMENT OF CLAIMS.**

Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the housing finance agency, the higher education services office, the higher education facilities authority, the health technology advisory committee, the armory building commission, the zoological board, the iron range resources and rehabilitation board, the state agricultural society, the University of Minnesota, state universities, com-

munity colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota national guard, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs or other similar hazardous explosives, as defined in section 299C.063, outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. Notwithstanding sections 43A.02 and 611.263, for purposes of this section and section 3.736 only, "employee of the state" includes a district public defender or assistant district public defender in the second or fourth judicial district and a member of the health technology advisory committee.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

*[For text of subs 2 to 6, see M.S.1994]*

**History:** 1995 c 212 art 3 s 59; 1995 c 226 art 4 s 1

### 3.7371 COMPENSATION FOR CROP DAMAGE CAUSED BY ELK.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Compensation.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county. The commissioner, upon recommendation of the agent, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is damaged or destroyed. In any calendar year, a crop owner may not be compensated for a damaged or destroyed crop that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed.

*[For text of subs 4 to 7, see M.S.1994]*

**History:** 1995 c 33 s 1

### 3.842 REVIEW OF RULES BY COMMISSION.

*[For text of subd 1, see M.S.1994]*

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

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

*[For text of subd 3, see M.S.1994]*

**Subd. 4. Suspensions.** (a) The commission may, on any of the grounds listed in paragraph (b) and on the basis of the testimony received at the public hearings, suspend any rule complained of by the affirmative vote of at least six members provided the provisions of section 3.844 have been met. If any rule is suspended, the commission shall as soon as possible place before the legislature, at the next year's session, a bill to repeal the suspended rule. If

the bill is not enacted in that year's session, the rule is effective upon adjournment of the session unless the agency has repealed it. If the bill is enacted, the rule is repealed.

(b) A rule suspension under paragraph (a) must be based on one or more of the following reasons:

- (1) an absence of statutory authority;
- (2) an emergency relating to public health, safety, or welfare;
- (3) a failure to comply with legislative intent;
- (4) a conflict with state law;
- (5) a change in circumstances since enactment of the earliest law upon which the rule is based;

(6) arbitrariness and capriciousness, or imposition of an undue hardship.

(c) This section authorizes the commission to suspend a rule only when the vote to suspend is taken, and the effective date of the suspension occurs, at a time when the legislature could not enact a bill to repeal the rule.

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

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

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

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

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

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

(g) Pursuant to sections 14.44 and 14.45, the commission may petition for a declaratory judgment to determine the validity of any rule objected to by the commission.

This action must be started within two years after an objection is filed in the office of the secretary of state.

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

*[For text of subs 5 to 7, see M.S.1994]*

**History:** 1995 c 233 art 2 s 1-3

### **3.843 PUBLIC HEARINGS BY STATE AGENCIES.**

By a vote of a majority of its members, the commission may request any agency issuing rules to hold a public hearing in respect to recommendations made pursuant to section 3.842, including recommendations made by the commission to promote adequate and proper rules

by that agency and recommendations contained in the commission's biennial report. The agency shall give notice as provided in section 14.14, subdivision 1 of a hearing thereon, to be conducted in accordance with sections 14.05 to 14.28. The hearing shall be held not more than 60 days after receipt of the request or within any other longer time period specified by the commission in the request.

**History:** 1995 c 233 art 2 s 56

**3.846** [Repealed, 1995 c 233 art 2 s 57]

### **3.85 LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.**

*[For text of subs 1 to 4, see M.S.1994]*

**Subd. 5. Staff.** The commission may employ professional and technical assistants as it deems necessary to perform the duties prescribed in this section.

*[For text of subs 6 to 11, see M.S.1994]*

**Subd. 12. Allocation of actuarial cost.** (a) The commission shall assess each retirement plan specified in subdivision 11, paragraph (b), the compensation paid to the actuary retained by the commission for the actuarial valuation calculations and quadrennial experience studies. The assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm retained by the commission for actuarial valuation calculations, including the public employees police and fire plan consolidation accounts of the public employees retirement association, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined as follows:

(1) Each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), must pay the following indexed amount based on its total active, deferred, inactive, and benefit recipient membership:

up to 2,000 members, inclusive	\$2.55 per member
2,001 through 10,000 members	\$1.13 per member
over 10,000 members	\$0.11 per member

The amount specified is applicable for the assessment of the July 1, 1991, to June 30, 1992, fiscal year actuarial compensation amounts. For the July 1, 1992, to June 30, 1993, fiscal year and subsequent fiscal year actuarial compensation amounts, the amount specified must be increased at the same percentage increase rate as the implicit price deflator for state and local government purchases of goods and services for the 12-month period ending with the first quarter of the calendar year following the completion date for the actuarial valuation calculations, as published by the federal Department of Commerce, and rounded upward to the nearest full cent.

(2) The total per-member portion of the allocation must be determined, and that total per-member amount must be subtracted from the total amount for allocation. Of the remainder dollar amount, the following per-retirement system and per-pension plan charges must be determined and the charges must be paid by the system or plan:

(i) 37.87 percent is the total additional per-retirement system charge, of which one-seventh must be paid by each retirement system specified in subdivision 11, paragraph (b), clauses (1), (2), (6), (7), (9), (10), and (11).

(ii) 62.13 percent is the total additional per-pension plan charge, of which one-thirteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (13), if there are not any participants in the plan specified in subdivision 11, paragraph (b), clause (14), or of which one-fourteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), if there are participants in the plan specified in subdivision 11, paragraph (b), clause (14).

(b) The assessment must be made following the completion of the actuarial valuation calculations and the experience analysis. The amount of the assessment is appropriated from

the retirement fund applicable to the retirement plan. Receipts from assessments must be deposited in the state treasury and credited to the general fund.

**History:** 1995 c 248 art 2 s 3; 1995 c 254 art 1 s 36

### 3.855 LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS.

Subdivision 1. [Repealed, 1995 c 248 art 2 s 8]

Subd. 1a. **Definitions.** "Commission" means the legislative coordinating commission or a legislative commission established by the coordinating commission, as provided in section 3.305, subdivision 6, to exercise the powers and discharge the duties of the coordinating commission under this section or other law requiring action by the coordinating commission on matters of public employment or compensation.

*[For text of subd 2, see M.S.1994]*

Subd. 3. **Other salaries and compensation plans.** The commission shall also:

(1) review and approve, reject, or modify a plan for compensation and terms and conditions of employment prepared and submitted by the commissioner of employee relations under section 43A.18, subdivision 2, covering all state employees who are not represented by an exclusive bargaining representative and whose compensation is not provided for by chapter 43A or other law;

(2) review and approve, reject, or modify a plan for total compensation and terms and conditions of employment for employees in positions identified as being managerial under section 43A.18, subdivision 3, whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A;

(3) review and approve, reject, or modify recommendations for salaries submitted by the governor under section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081;

(4) review and approve, reject, or modify recommendations for salaries of officials of higher education systems under section 15A.081, subdivision 7b; and

(5) review and approve, reject, or modify plans for compensation, terms, and conditions of employment proposed under section 43A.18, subdivisions 3a and 4.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 239 s 1; 1995 c 248 art 2 s 4

3.861 [Repealed, 1995 c 248 art 2 s 8]

3.863 [Repealed, 1995 c 248 art 2 s 8]

3.864 [Repealed, 1995 c 248 art 2 s 8]

### 3.873 LEGISLATIVE COMMISSION ON CHILDREN, YOUTH, AND THEIR FAMILIES.

*[For text of subs 1 to 8, see M.S.1994]*

Subd. 9. [Repealed, 1995 c 248 art 2 s 8]

3.881 [Repealed, 1995 c 248 art 2 s 8]

3.882 [Repealed, 1995 c 248 art 2 s 8]

### 3.885 LEGISLATIVE COMMISSION ON PLANNING AND FISCAL POLICY.

*[For text of subd 1, see M.S.1994]*

Subd. 1a. [Repealed, 1995 c 248 art 2 s 8]

*[For text of subd 2, see M.S.1994]*

Subd. 3. [Repealed, 1995 c 248 art 2 s 8]

*[For text of subs 4 and 5, see M.S.1994]*

Subd. 6. [Repealed, 1995 c 248 art 2 s 8]

Subd. 7. [Repealed, 1995 c 248 art 2 s 8]

Subd. 8. [Repealed, 1995 c 248 art 2 s 8]

### **3.922 INDIAN AFFAIRS COUNCIL.**

Subdivision 1. **Creation, membership.** The state Indian affairs council is created to consist of the following ex officio members:

the governor or a member of the governor's official staff designated by the governor,  
the commissioner of children, families, and learning,

the commissioner of human services,  
the commissioner of natural resources,

the commissioner of human rights,  
the commissioner of trade and economic development,

the commissioner of corrections,  
the commissioner of the Minnesota housing finance agency,

the commissioner of iron range resources and rehabilitation,  
the commissioner of health,

each of whom may designate a staff member to serve instead, and

three members of the house of representatives appointed by the speaker, and three members of the senate appointed by its subcommittee on committees.

Voting members of the council are the elected tribal chair of:

the Fond du Lac Reservation business committee;

the Grand Portage Reservation business committee;

the Mille Lacs Reservation business committee;

the White Earth Reservation business committee;

the Bois Forte (Nett Lake) Reservation business committee;

the Leech Lake Reservation business committee;

the Red Lake tribal council;

the Upper Sioux board of trustees;

the Lower Sioux tribal council;

the Shakopee-Mdewankanton general council;

the Prairie Island tribal council; and

two members to be selected under subdivision 2.

The chairs of the Indian committees, trusts, or councils may designate in writing a member who has been elected at large to an office in the committee, trust, or council, to serve instead. Members appointed to represent the house of representatives, the senate or tribal governments shall no longer serve on the council when they are no longer members of the bodies which they represent and their offices shall be vacant. A member who is a designee of a tribal chair shall cease to be a member at the end of the term of the designating tribal chair. Ex officio members or their designees on the council shall not vote.

*[For text of subs 2 to 9, see M.S.1994]*

**History:** 1Sp1995 c 3 art 16 s 13

**3.9227** [Repealed, 1995 c 248 art 2 s 8]

### **3.9741 COST OF EXAMINATION, BILLING, PAYMENT.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Post-secondary education board.** The legislative auditor may enter into an interagency agreement with the board of trustees of the Minnesota state colleges and univer-



sities to conduct financial audits, in addition to audits conducted under section 3.972, subdivision 2. All payments received for audits requested by the board shall be added to the appropriation for the legislative auditor.

**History:** 1995 c 212 art 4 s 1; 1995 c 254 art 1 s 37