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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1490

March 1, 2007

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The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

March 22, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to Scott County; establishing and modifying hiring process and personnel
1.3 provisions.

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

1.5 Section 1. CREATE DEPARTMENT; APPOINT APPEALS BOARD TO
1.6 ESTABLISH.

1.7 The Scott County Board may establish a county personnel administration system by
1.8 adopting a resolution creating a personnel department, establishing an effective date and
1.9 appointing a personnel appeals board pursuant to Minnesota Statutes, section 375.65.

1.10 Sec. 2. DEFINITIONS.

1.11 Subdivision 1. Application. For the purpose of sections 1 to 16, unless the context
1.12 clearly indicates that a different meaning is intended, the terms defined in this section have
1.13 the following meanings.

1.14 Subd. 2. Appointing authority. "Appointing authority" means the official,
1.15 employee, board, or commission, or the person or group of persons empowered by statute,
1.16 ordinance or resolution to make an appointment to positions as county employees within
1.17 the scope of sections 1 to 14.

1.18 Subd. 3. Director. "Director" means the director of the department of personnel.

1.19 Subd. 4. Personnel department. "Personnel department" means the personnel
1.20 director and the employees engaged in the administration of the personnel department.

1.21 Subd. 5. Board of appeals. "Board of appeals" means the personnel board of
1.22 appeals established pursuant to section 10.

2.1 Sec. 3. **JURISDICTION.**

2.2 Subdivision 1. All but excluded. The jurisdiction of the Scott County personnel
2.3 department created pursuant to section 1 shall include every county level public
2.4 employment position for which the appointing authority is the county board, the local
2.5 social services agency, the county human services board, an elected county official, an
2.6 appointed county department head, or a commission or board appointed by the county
2.7 board, except the positions excluded under subdivisions 2 and 3.

2.8 Subd. 2. Excluded. The following positions are excluded from the jurisdiction of
2.9 the county personnel department:

2.10 (1) elected positions;

2.11 (2) positions for which a county or district court judge is the appointing authority;

2.12 (3) positions designated as department heads appointed by the county board;

2.13 (4) positions designated as department heads appointed by boards or commissions
2.14 appointed by the county board;

2.15 (5) one position designated by each elected department head as a chief or principal
2.16 assistant; and

2.17 (6) one position designated by each elected department head as a personal secretary.

2.18 Subd. 3. Optional exclusions. At the option of the county board, the following
2.19 positions may be excluded from the jurisdiction of the county personnel department:

2.20 (1) any positions subject to merit systems established pursuant to Minnesota
2.21 Statutes, sections 12.22, subdivision 3; 144.071; 256.012; and 387.31 to 387.45;

2.22 (2) positions designated as temporary or seasonal;

2.23 (3) positions held by special deputies and volunteers serving without pay; and

2.24 (4) positions held by students in training.

2.25 Sec. 4. **PERSONNEL DIRECTOR APPOINTMENT.**

2.26 A county board which has adopted the resolution authorized in section 1 shall
2.27 promptly appoint a personnel director or assign the function of personnel director to
2.28 an existing officer or employee. In a county which is operating under an optional form
2.29 pursuant to Minnesota Statutes, sections 375A.01 to 375A.13, the authority to appoint the
2.30 personnel director shall be the same as for the appointment of other department heads.
2.31 The terms and conditions of employment of the person appointed as director or assigned
2.32 the function of director shall be established by the county board.

2.33 Sec. 5. **DUTIES AND POWERS OF DIRECTOR.**

3.1 Subdivision 1. **Rules.** The personnel director shall prepare personnel rules, which
3.2 shall be effective upon approval by the county board, to carry out sections 1 to 16. The
3.3 rules shall provide, among other things, for:

3.4 (1) preparation of a classification plan and classification of positions within the
3.5 jurisdiction of the department in accordance with the plan;

3.6 (2) creation and maintenance of applicant pools and finalist pools;

3.7 (3) administration of an active system of employee recruitment and selection
3.8 designed to attract sufficient numbers of well-qualified people to meet the needs of
3.9 public service;

3.10 (4) establishment of procedures for the recruitment, selection, and advancement of
3.11 personnel consistent with merit system principles and modern business practices;

3.12 (5) establishment of procedures ensuring nondiscriminatory and fair treatment of
3.13 applicants and employees in all aspects of personnel administration without regard to race,
3.14 color, creed, religion, national origin, sex, marital status, status with regard to public
3.15 assistance, membership or activity in a local commission, disability, sexual orientation, or
3.16 age; and

3.17 (6) establishment of procedures for suspension or termination or other disciplinary
3.18 action, including procedures for appeal of actions by appointing authorities with respect
3.19 to suspension or termination or other disciplinary action.

3.20 Subd. 2. **Administration.** The director shall administer the personnel department.
3.21 In addition to the duties imposed elsewhere in sections 1 to 16, the director shall:

3.22 (1) appoint, supervise, and direct the work of the employees of the personnel
3.23 department;

3.24 (2) schedule and conduct hearings as required by rules adopted pursuant to sections
3.25 1 to 16 or at the direction of the county board;

3.26 (3) establish minimum qualifications and selection procedures for filling positions
3.27 based on job-related criteria; determine systems and procedures for establishing finalist
3.28 pools. For purposes of this clause, "finalist pool" means members of the applicant pool
3.29 who, through successful competition, have been determined to best meet the established
3.30 qualifications and criteria and who may be hired into the position;

3.31 (4) make investigations concerning the administration and effect of rules made
3.32 pursuant to sections 1 to 16 and report the findings and recommendations to the county
3.33 board;

3.34 (5) establish programs for training and continuing education of employees as
3.35 deemed appropriate by the county board to improve the quality of service of employees
3.36 holding positions within the jurisdiction of the department; and

4.1 (6) prepare a compensation plan and recommend a schedule of salary or wage rates
4.2 for positions within the jurisdiction of the personnel department for adoption by the
4.3 county board.

4.4 **Sec. 6. PAYROLLS APPROVED BY DIRECTOR.**

4.5 No disbursing officer shall pay a salary or compensation for service to a person
4.6 holding a position within the jurisdiction of a personnel department established pursuant
4.7 to sections 1 to 16 unless the payroll or account for the salary or compensation is certified
4.8 by the personnel director or an authorized employee that the persons paid or compensated
4.9 have been appointed in accordance with sections 1 to 16 and rules adopted pursuant
4.10 to sections 1 to 16. The director shall not certify a payroll item for a person holding a
4.11 position within the jurisdiction of the department unless the person has been appointed
4.12 and employed in accordance with sections 1 to 16 and rules adopted pursuant to sections 1
4.13 to 16.

4.14 **Sec. 7. CIVIL SERVICE AND MERIT SYSTEM RELATIONSHIPS.**

4.15 Unless the county board has elected to exclude any or all positions otherwise subject
4.16 to merit systems established pursuant to Minnesota Statutes, sections 12.22, subdivision
4.17 3; 144.071; 256.012; and 387.31 to 387.45, from the jurisdiction of the personnel
4.18 department, the provisions of Minnesota Statutes, sections 12.22, subdivision 3; 144.071;
4.19 256.012; and 387.31 to 387.45, and any rules promulgated pursuant to those sections shall
4.20 be superseded insofar as they are inconsistent with Minnesota Statutes, sections 375.66
4.21 to 375.71, but no positions subject to merit systems established pursuant to Minnesota
4.22 Statutes, sections 12.22, subdivision 3; 144.071; and 256.012, shall be removed from
4.23 existing merit system coverage and placed under a personnel department established
4.24 pursuant to sections 1 to 16, until that personnel department is certified in accordance
4.25 with the United States Office of Personnel Management's standards for a merit system
4.26 of personnel administration. Nothing in Minnesota Statutes, section 387.43, shall be
4.27 construed to prohibit the inclusion of sheriff's department personnel in a personnel system
4.28 established pursuant to sections 1 to 14.

4.29 **Sec. 8. VETERANS TO BE GIVEN PREFERENCE.**

4.30 Notwithstanding Minnesota Statutes, section 197.455, veterans' preference in Scott
4.31 County must be administered according to Minnesota Statutes, section 43A.11.

4.32 **Sec. 9. COLLECTIVE BARGAINING RELATIONSHIPS.**

5.1 Subdivision 1. **Joint employer.** For purposes of negotiating collective bargaining
 5.2 agreements and resolving grievances involving them pursuant to Minnesota Statutes,
 5.3 sections 179A.01 to 179A.25, the appointing authority and the county board shall be
 5.4 deemed the joint employer for positions within the jurisdiction of a personnel department
 5.5 established pursuant to sections 1 to 16. Both shall be signatories to negotiated agreements
 5.6 or grievance settlements. In the event of disagreement between the county board and
 5.7 the appropriate appointing authority as to the final terms of a negotiated agreement or
 5.8 grievance settlement, the decision of the county board shall be final and binding on behalf
 5.9 of the county as employer for all employees of the county, including employees under the
 5.10 jurisdiction of an appointing authority other than the county board.

5.11 Subd. 2. **Incumbent employees.** Any employee holding a position covered by
 5.12 sections 1 to 16 shall, upon the effective date of the establishment of a county personnel
 5.13 administration system, retain the position without further examination and suffer no loss
 5.14 in wages, seniority or benefits as the result of the implementation of sections 1 to 16.

5.15 Sec. 10. **PERSONNEL BOARD OF APPEALS.**

5.16 Subdivision 1. **Members; terms; qualifications.** The county board shall appoint
 5.17 three persons to serve staggered terms as members of a personnel board of appeals. After
 5.18 the first appointments, successors shall serve for terms of three years each. Expiration
 5.19 dates for expiring terms shall be fixed by the county board and vacancies shall be filled
 5.20 by a majority vote of the county board for the unexpired term. Persons appointed to
 5.21 the personnel board of appeals shall not serve while holding any county office or while
 5.22 standing as a candidate for any county office, or while employed by the county. Each
 5.23 member shall be a resident of the county and shall forfeit office on becoming a nonresident.

5.24 Subd. 2. **Compensation; expenses.** Compensation for members of the personnel
 5.25 board of appeals shall be set by the county board and each member shall be paid actual
 5.26 and necessary expenses.

5.27 Subd. 3. **Officers; rules.** The personnel board of appeals shall organize by electing
 5.28 a chair and vice-chair and shall develop rules of procedure for matters brought before it
 5.29 under sections 1 to 16 and rules promulgated pursuant to sections 1 to 16.

5.30 Sec. 11. **DUTIES OF BOARD OF APPEALS.**

5.31 Subdivision 1. **Jurisdiction.** The personnel board of appeals shall meet upon call of
 5.32 its chair or the personnel director to make findings and report to the county board within
 5.33 30 days of the filing of an appeal by an applicant, employee, or appointing authority
 5.34 in the following circumstances:

6.1 (1) alleged arbitrary or capricious action on the part of the county board with respect
 6.2 to final establishment of rules under sections 1 to 16;

6.3 (2) alleged discrimination by the personnel director or the director's employees in
 6.4 examination procedures or preparation of lists of eligible candidates, or discriminatory use
 6.5 of them by the appointing authority under sections 1 to 16 or rules promulgated under
 6.6 them;

6.7 (3) alleged misinterpretation or evasion by the personnel director or the county
 6.8 board of provisions of sections 1 to 16 or the rules promulgated under them in a manner
 6.9 seriously detrimental to the party bringing the appeal; or

6.10 (4) other matters of grievance as provided for in rules promulgated under sections 1
 6.11 to 16.

6.12 Subd. 2. **Procedures.** The personnel board of appeals shall establish procedures
 6.13 setting forth the methods and timetable for appeals to the board.

6.14 Subd. 3. **Appeal findings.** Findings and reports of the personnel board of appeals
 6.15 shall be submitted to the county board for consideration and action as deemed appropriate
 6.16 by the county board, but, to the extent required for employees of departments and agencies
 6.17 paid in full or in part by federal funds, the findings of the personnel board of appeals shall
 6.18 be final and binding if necessary to conform to a federal or state regulation affecting the
 6.19 department or position.

6.20 Sec. 12. **JUDICIAL REVIEW.**

6.21 The employee or the appointing authority may appeal from an order of the board of
 6.22 appeals in accordance with Minnesota Statutes, chapter 14.

6.23 Sec. 13. **ABOLITION OF SYSTEM.**

6.24 A personnel administration system established pursuant to sections 1 to 14 may be
 6.25 abolished at any time by resolution of the county board adopted by a majority of all its
 6.26 members. Upon adoption of the resolution, the personnel department shall cease to exist
 6.27 and the status of all departments, commissions, and employees shall be the same as if no
 6.28 personnel administration system had been established.

6.29 Sec. 14. **APPROPRIATION BY COUNTY BOARD.**

6.30 The county board may make appropriations as necessary to carry out sections 1 to 16.

6.31 Sec. 15. **FEDERAL AID FOR MANPOWER SERVICES.**

7.1 A county may receive financial assistance from agencies of the United States,
7.2 and plan for, and carry out comprehensive manpower services as provided for in the
7.3 Emergency Employment Act of 1971, as amended, and the Comprehensive Employment
7.4 and Training Act of 1973, as amended.

7.5 Sec. 16. **PROTECTION OF RIGHTS UNDER STATE AND FEDERAL LAWS.**

7.6 Subdivision 1. **Equal employment; human rights.** Nothing in sections 1 to 14 shall
7.7 be construed to permit or encourage any action or conduct prohibited by the Minnesota
7.8 Human Rights Act or prohibit recourse to any remedies provided in the Minnesota Human
7.9 Rights Act or any other state or federal law relating to equal employment opportunities,
7.10 and the provisions of these acts shall continue to apply to county employment generally,
7.11 including positions excluded from the jurisdiction of the county personnel administration
7.12 system.

7.13 Subd. 2. **PELRA rights.** Nothing in sections 1 to 14 shall be construed to affect the
7.14 rights and obligations of employees and employers under Minnesota Statutes, sections
7.15 179A.01 to 179A.25, or to in any way supersede provisions regarding public employment
7.16 relationships under the Public Employment Labor Relations Act of 1971, or the provisions
7.17 of any contracts or agreements executed pursuant to it.