

This Document can be made available  
in alternative formats upon request

State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-FIFTH  
SESSION**

**HOUSE FILE No. 2997**

February 14, 2008

Authored by Buesgens

The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act  
1.2 relating to public employment; establishing financial parameters for public  
1.3 employment contracts; amending Minnesota Statutes 2006, sections 179A.01;  
1.4 179A.03, by adding subdivisions; 179A.07, subdivision 1; 179A.18, subdivision  
1.5 1; 179A.20, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2006, section 179A.01, is amended to read:

1.8 **179A.01 PUBLIC POLICY.**

1.9 It is the public policy of this state and the purpose of sections 179A.01 to 179A.25 to  
1.10 promote orderly and constructive relationships between all public employers and their  
1.11 employees. This policy is subject to the paramount right of the citizens of this state to keep  
1.12 inviolate the guarantees for their health, education, safety, and welfare and is bounded by  
1.13 the financial limitations of the state and its political subdivisions.

1.14 The relationships between the public, public employees, and employer governing  
1.15 bodies involve responsibilities to the public and a need for cooperation and employment  
1.16 protection which are different from those found in the private sector. The importance or  
1.17 necessity of some services to the public can create imbalances in the relative bargaining  
1.18 power between public employees and employers. As a result, unique approaches to  
1.19 negotiations and resolutions of disputes between public employees and employers are  
1.20 necessary within and bounded by the financial limitations of the state and its political  
1.21 subdivisions.

1.22 Unresolved disputes between the public employer and its employees are injurious to  
1.23 the public as well as to the parties. Adequate means must be established for minimizing

2.1 them and providing for their resolution. Within these limitations and considerations, the  
2.2 legislature has determined that overall policy is best accomplished by:

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

2.5 (2) requiring public employers to meet and negotiate with public employees in  
2.6 an appropriate bargaining unit and providing that the result of bargaining be in written  
2.7 agreements; and

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

2.11 Nothing in sections 179A.01 to 179A.25 impairs, modifies, or alters the authority of  
2.12 the legislature to establish rates of pay, or retirement or other benefits for its employees.

2.13 **EFFECTIVE DATE.** This section is effective the day following final enactment  
2.14 and applies to any proposal or agreement made or modified after that date.

2.15 Sec. 2. Minnesota Statutes 2006, section 179A.03, is amended by adding a subdivision  
2.16 to read:

2.17 **Subd. 16a. Structural balance calculation.** (a) "Structural balance calculation"  
2.18 means that, under the uniform costing methodology, estimated operating expenditures,  
2.19 including those operating expenditures resulting from a contract under this chapter during  
2.20 the contract term and one additional fiscal year, must not exceed estimated ongoing  
2.21 available funds over that time period. The employer must incorporate into its budgeting  
2.22 process projections and calculations based at least upon the reasonable assumptions in  
2.23 paragraphs (b) to (d).

2.24 (b) Onetime sources of revenue and any fund balances are not available funds for  
2.25 ongoing expenditures.

2.26 (c) Projections and calculations of ongoing revenues and expenditures for the  
2.27 contract period plus one additional fiscal year must include applicable state aid formulas  
2.28 at current rates, pupil units for a school district, and employee costs, including the terms  
2.29 of labor agreements, fringe benefits, severance pay, and actual retirements approved by  
2.30 the employer.

2.31 (d) Expenditure cuts that will diminish the amount or the quality of service may not  
2.32 be included in the calculations as a specific budget line item before or after a contract  
2.33 under this chapter is settled in order to achieve structural balance.

3.1 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.2 and applies to any proposal or agreement made or modified after that date.

3.3 Sec. 3. Minnesota Statutes 2006, section 179A.03, is amended by adding a subdivision  
3.4 to read:

3.5 Subd. 19a. **Terms and conditions of employment.** (a) "Terms and conditions  
3.6 of employment" means:

3.7 (1) the hours of employment and hourly wages for nonexempt employees under the  
3.8 federal Fair Labor Standards Act (FLSA);

3.9 (2) the salary for exempt employees under the federal Fair Labor Standards Act;

3.10 (3) employer payment of, or contributions to, premiums for a group insurance plan,  
3.11 and the design, terms, and selection of the plan;

3.12 (4) sick leave;

3.13 (5) vacation plan;

3.14 (6) probationary period not otherwise specified by law; and

3.15 (7) the term of the contract.

3.16 (b) In the case of professional employees, educational policies of a school district  
3.17 are not included in the terms and conditions of employment.

3.18 (c) "Terms and conditions of employment" does not include retirement contributions  
3.19 or benefits, other than employer payment of, or contribution to, premiums for a group  
3.20 insurance plan, and the design, terms, and selection of the plan.

3.21 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.22 and applies to any proposal or agreement made or modified after that date.

3.23 Sec. 4. Minnesota Statutes 2006, section 179A.03, is amended by adding a subdivision  
3.24 to read:

3.25 Subd. 19b. **Uniform costing methodology.** (a) "Uniform costing methodology"  
3.26 means combining the categories of expenditures under this paragraph for the employer's  
3.27 fiscal year (base year) that precedes the time period for which the parties are meeting and  
3.28 negotiating (base year) and projecting the costs for those same expenditures into the  
3.29 time period of the contract being negotiated. The bargaining unit employees used in the  
3.30 base year remain unchanged for all years into which the categories of expenditures are  
3.31 projected. The categories of expenditures must include at least the following:

3.32 (1) across-the-board or general wage increases;

3.33 (2) longevity increases of any type, including at least step increases;

3.34 (3) educational attainment increases of any type, including at least lane changes;

- 4.1           (4) pay differentials;
- 4.2           (5) performance compensation;
- 4.3           (6) additional compensation of any type for additional work performed;
- 4.4           (7) severance pay;
- 4.5           (8) early retirement incentives;
- 4.6           (9) employer contributions to state pension plans;
- 4.7           (10) employer contributions to supplemental pension plans;
- 4.8           (11) employer contributions to FICA;
- 4.9           (12) cash in lieu of or in exchange for benefits, including at least sick leave, personal
- 4.10 leave, or vacation;
- 4.11           (13) payments to substitute employees for incumbents on leaves of absences, paid
- 4.12 or unpaid;
- 4.13           (14) vacation pay; and
- 4.14           (15) employer contributions toward the cost of group insurance plan premiums
- 4.15 including the following:
- 4.16           (i) health insurance changes or increases;
- 4.17           (ii) dental insurance changes or increases;
- 4.18           (iii) life insurance changes or increases;
- 4.19           (iv) disability insurance changes or increases;
- 4.20           (v) long-term care insurance changes or increases; and
- 4.21           (vi) other insurance changes or increases.
- 4.22           (b) The parties may mutually agree upon additional expenditure categories.

4.23           **EFFECTIVE DATE.** This section is effective the day following final enactment

4.24 and applies to any proposal or agreement made or modified after that date.

4.25           Sec. 5. Minnesota Statutes 2006, section 179A.07, subdivision 1, is amended to read:

4.26           Subdivision 1. **Inherent managerial policy.** A public employer ~~is~~ may not required

4.27 ~~to~~ meet and negotiate on matters of inherent managerial policy. Matters of inherent

4.28 managerial policy include, but are not limited to, such areas of discretion or policy as the

4.29 functions and programs of the employer, its overall budget, calculations of structural

4.30 balance, utilization of technology, the organizational structure, selection of personnel, and

4.31 direction and the number of personnel. No public employer shall sign an agreement which

4.32 limits its right to select persons to serve as supervisory employees or state managers under

4.33 section 43A.18, subdivision 3, or requires the use of seniority in their selection.

5.1 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 5.2 and applies to any proposal or agreement made or modified after that date.

5.3 Sec. 6. Minnesota Statutes 2006, section 179A.18, subdivision 1, is amended to read:

5.4 Subdivision 1. **When authorized.** Essential employees may not strike. Except as  
 5.5 otherwise provided by subdivision 2 and section 179A.17, subdivision 2, other public  
 5.6 employees may strike only under the following circumstances:

5.7 (1)~~(a)~~ (i) the collective bargaining agreement between their exclusive representative  
 5.8 and their employer has expired or, if there is no agreement, impasse under section  
 5.9 179A.17, subdivision 2, has occurred; ~~and~~

5.10 ~~(b)~~ (ii) the exclusive representative and the employer have participated in mediation  
 5.11 over a period of at least 45 days, provided that the mediation period established by section  
 5.12 179A.17, subdivision 2, governs negotiations under that section, and provided that for the  
 5.13 purposes of this subclause the mediation period commences on the day following receipt  
 5.14 by the commissioner of a request for mediation; ~~or~~ and

5.15 (iii) the final offer of the exclusive representative based on the uniform costing  
 5.16 methodology under section 179A.03, subdivision 19b, both individually and in aggregate  
 5.17 with other settlement, arbitration award, or recent offers of the exclusive representative  
 5.18 for contracts required under this chapter equals or is less than the structural balance  
 5.19 calculation under section 179A.03, subdivision 16a;

5.20 (2) the employer violates section 179A.13, subdivision 2, clause (9); or

5.21 (3) in the case of state employees;:

5.22 ~~(a)~~ (i) the Legislative Coordinating Commission has rejected a negotiated agreement  
 5.23 or arbitration decision during a legislative interim; or

5.24 ~~(b)~~ (ii) the entire legislature rejects or fails to ratify a negotiated agreement  
 5.25 or arbitration decision, which has been approved during a legislative interim by the  
 5.26 Legislative Coordinating Commission, at a special legislative session called to consider it,  
 5.27 or at its next regular legislative session, whichever occurs first.

5.28 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 5.29 and applies to any proposal or agreement made or modified after that date.

5.30 Sec. 7. Minnesota Statutes 2006, section 179A.20, is amended by adding a subdivision  
 5.31 to read:

5.32 Subd. 1a. **Structural balance requirement.** (a) Before a public employer enters  
 5.33 into a collective bargaining contract, and before an arbitrator or arbitration panel issues an  
 5.34 interest arbitration award, the public employer or the arbitrator must make a structural

6.1 balance calculation based on the uniform costing methodology. The arbitrator's calculation  
6.2 must be based on information submitted by the employer using the uniform costing  
6.3 methodology.

6.4 (b) A public employer may not enter into a collective bargaining contract, and an  
6.5 arbitrator or arbitration panel may not issue an interest arbitration award, if the contract or  
6.6 the interest arbitration award, as determined by the structural balance calculation would:

6.7 (1) cause estimated operating expenditures to exceed estimated ongoing available  
6.8 funds during the contract term or during one additional fiscal year; or

6.9 (2) increase the amount by which estimated ongoing operating expenditures  
6.10 exceed estimated ongoing available funds, if estimated ongoing operating expenditures  
6.11 already exceed estimated ongoing available funds during the contract term or during  
6.12 one additional fiscal year.