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HOUSE FILE No. 940

FIRST COMMITTEE ENGROSSMENT

February 19, 2009

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections

Referred by Chair to Local Government Division.

March 13, 2009

Returned to the Committee on State and Local Government Operations Reform, Technology and Elections as Amended.

1.1 A bill for an act
1.2 relating to Hennepin County; modifying personnel rules and procedures;
1.3 amending Minnesota Statutes 2008, sections 383B.27, subdivision 16; 383B.29,
1.4 subdivision 2; 383B.31.

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

1.6 Section 1. Minnesota Statutes 2008, section 383B.27, subdivision 16, is amended to
1.7 read:

1.8 Subd. 16. **Probationary period.** "Probationary period" means that part of the hiring
1.9 process following certification and appointment from a list of certified candidates, to
1.10 enable the appointing authority to determine whether employees are fit and suitable for the
1.11 position to which they have been appointed, transferred, or promoted. The appointing
1.12 authority may discharge a newly appointed employee during the probationary period
1.13 without specifying cause or granting a hearing, except as provided by section 197.46. The
1.14 appointing authority may, during the probationary period, demote an employee appointed
1.15 to a position as a result of a promotion without specifying cause or granting a hearing,
1.16 except as provided by section 197.46. The employee so demoted ~~shall be returned to a~~
1.17 ~~position in the class previously held by the affected employee~~ may be dismissed for just
1.18 cause if the employee's performance does not meet the appointing authority's work or
1.19 conduct expectations for the position to which the employee was demoted. The appointing
1.20 authority may, during the probationary period, return a transferred employee back to a
1.21 position in the classification and organizational unit the employee previously held without
1.22 specifying cause or granting a hearing, except as provided by section 197.46. When an
1.23 employee has been transferred from one department to another and upon the request of the
1.24 new appointing authority the employee may be required to serve a probationary period.

2.1 Sec. 2. Minnesota Statutes 2008, section 383B.29, subdivision 2, is amended to read:

2.2 Subd. 2. **Duties.** (a) The board shall establish rules for the classified service with the
2.3 assistance of the human resources director. All rules and amendments proposed by the
2.4 board shall be subject to public hearing upon prior notice to department heads, employees,
2.5 affected labor organizations, and the public, as the board may, by rule prescribe. The rules
2.6 as approved by the majority vote of the board shall be submitted to the county board for
2.7 approval or rejection. When approved, by majority vote and in the form of a written
2.8 resolution, the rules shall have the force and effect of law. The rules may be amended
2.9 and repealed with the consent of the county board in the same manner as provided for
2.10 original adoption.

2.11 (b) The rules shall provide for:

2.12 (1) selection methods and the establishment of lists to fill positions in the county
2.13 service including promotion;

2.14 (2) the appointment of qualified candidates to vacant positions, if the vacancy is not
2.15 filled by recall from the layoff list, demotion, reinstatement, reassignment, transfer from
2.16 other employers or with county service. Whenever practicable, vacancies must be filled
2.17 by promotion. The 20 persons having the highest qualifications that meet the requirements
2.18 of the position to be filled, when available, must be referred to appointing authority when
2.19 a vacancy occurs;

2.20 (3) a period of probation during which period the probationer may be discharged or
2.21 demoted, without right of appeal. The period of probation, which is determined by the
2.22 department director and the human resources director, must not exceed ~~six~~ 12 months
2.23 unless ~~changed by six-sevenths approval of~~ approved by the board ~~due to extreme or~~
2.24 ~~unique conditions~~;

2.25 (4) seasonal, provisional, temporary, and emergency appointments. The
2.26 appointments, except seasonal, must not exceed six calendar months in any 12-month
2.27 period. Seasonal appointments must not exceed nine calendar months in any 12-month
2.28 period;

2.29 (5) voluntary demotion; reassignment; transfers from within county service or other
2.30 employers; and reinstatement of persons who without fault or delinquency on their part
2.31 are separated from the service or demoted;

2.32 (6) a compensation plan for classes and positions not represented by an exclusive
2.33 bargaining representative to be presented to the county board for approval;

2.34 (7) a classification plan for positions in the county service to be presented to the
2.35 county board for approval;

(8) leaves of absence with or without pay; layoffs; hours of employment; vacations and sick leave; severance pay, and other benefits and emoluments as may improve the public service;

(9) suspensions without pay for disciplinary purposes, discharges, or demotion of a permanent employee only when the person has been presented with written charges and has been allowed a hearing;

(10) establishment of reasonable fees, not to exceed the actual cost of service or material provided;

(11) establishment of rules of conduct that are conditions of employment in the county service; ~~and~~

(12) policies to deal with falsification of an application or record to improve prospects for employment or with interference with the selection process; and

~~(13)~~ (13) a panel of three department directors, randomly selected from outside the employee's department, to hear and decide nondisciplinary appeals within the jurisdiction of the board rules, if there has been a preliminary showing to the board county attorney that a rule violation has occurred. Any such board attorney ruling may be appealed to the board.

Sec. 3. Minnesota Statutes 2008, section 383B.31, is amended to read:

383B.31 DUTIES OF HUMAN RESOURCES DIRECTOR.

(a) The director as administrator of the Human Resources Department shall cooperate with and assist department heads and elected officials in providing an effective human resources program. The director shall direct and supervise all of the Human Resources Department's administrative and technical activities in addition to the duties imposed on the director in sections 383B.26 to 383B.42.

(b) The director shall:

(1) attend the meetings of the board, act as its secretary and maintain its official records;

(2) appoint the employees of the Human Resources Department in accordance with and subject to the provisions of sections 383B.26 to 383B.42; and

(3) recommend rules and amendments to rules for the administration of sections 383B.26 to 383B.42.

(c) The director shall establish uniform procedures and standards to:

(1) prepare, recommend and maintain a classification plan which shall group all positions in the county into classes;

(2) prepare, recommend, and maintain a compensation plan for the county service;

(3) except as provided in clauses (4) and (5), develop and hold competitive examinations to determine the qualifications of persons seeking employment in any class and to establish lists of those passing such examinations;

(4) develop a procedure and define the criteria for the selection and referral of qualified applicants to fill positions in classifications involving unskilled tasks or in classifications which require state licensure or certification to engage in the activity;

(5) establish alternative selection procedures to measure the ability of persons whose disabilities are so severe that the usual selection process cannot adequately predict job performance;

(6) when a vacancy is to be filled, to certify to the appointing authority upon requisition, the names of the persons highest on the appropriate layoff list, or if there is no such list, the appropriate eligible list for the class;

(7) maintain records necessary for the proper administration of sections 383B.26 to 383B.42;

(8) provide a system for checking payrolls and accounts for the payment of compensation to employees in the classified and unclassified service so as to enable the director, upon evidence thereof, to certify or cause to be certified the persons whose names appear thereon have been employed or on authorized leave before payment may be lawfully made to such employees;

(9) make investigations concerning the administration of sections 383B.26 to 383B.42 and rules made thereunder, and take corrective actions as deemed reasonable and appropriate to the situation;

(10) make investigations and reports required by the county board and report thereon; and

(11) make an annual report to the county board and the Human Resources Board on the activities of the Human Resources Department.

(d) The classification plan authorized in paragraph (c), clause (1), is effective on approval by the county board.

(e) The compensation plan authorized in paragraph (c), clause (2), may include benefits and other emoluments to improve the public service as determined by the human resources director. ~~A The plan that is approved effective on approval by a majority vote of the Human Resources Board is a recommendation to the county board which may approve or reject all or part of it.~~

(f) The examination process described in paragraph (c), clause (3), must provide for: (1) the rejection of otherwise eligible applicants or candidates who fail to comply with the reasonable requirements of the human resources director; and (2) examinations

5.1 that may consist of any one or a combination of the following: written or oral tests of the
5.2 subjective or objective type, physical tests, practical or demonstration tests, or evaluation
5.3 of past training and experience. Oral tests, either of the question and answer type, or the
5.4 interview type, may be used to test the candidates.

5.5 (g) The classifications described in paragraph (c), clause (4), must be authorized
5.6 by the county board. Applicants to fill vacancies in the classifications are exempt from
5.7 ranking and certification provided for in section 383B.29, subdivision 2, paragraph (b),
5.8 clause (2). The director shall refer all qualified applicants to the appointing authority
5.9 having vacancies in the appropriate classifications.

5.10 Sec. 4. **EFFECTIVE DATE.**

5.11 Sections 1 to 3 are effective upon compliance by the Hennepin County Board of
5.12 Commissioners with Minnesota Statutes, section 645.021, subdivisions 2 and 3.