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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4392

03/11/2020 Authored by Quam, Hertaus, Gruenhagen, Munson and Drazkowski
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to state government; changing certain state government operations;
1.3 repealing state aid to PERA for MERF; modifying rulemaking process for
1.4 construction rules; establishing zero-based budgeting; adding constraints on
1.5 contracting with exclusive representatives of state employees; conditional
1.6 appropriation reductions; amending Minnesota Statutes 2018, sections 3.855,
1.7 subdivision 2, by adding a subdivision; 16A.103, subdivision 1a; 16A.11,
1.8 subdivision 3; 179A.20, by adding a subdivision; Minnesota Statutes 2019
1.9 Supplement, section 353.27, subdivision 3c; proposing coding for new law in
1.10 Minnesota Statutes, chapters 14; 16A; repealing Minnesota Statutes 2019
1.11 Supplement, section 353.505.

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

1.13 Section 1. Minnesota Statutes 2018, section 3.855, subdivision 2, is amended to read:

1.14 Subd. 2. State employee negotiations. (a) The commissioner of management and budget
1.15 shall regularly advise the commission on the progress of collective bargaining activities
1.16 with state employees under the state Public Employment Labor Relations Act. During
1.17 negotiations, the commission may make recommendations to the commissioner as it deems
1.18 appropriate but no recommendation shall impose any obligation or grant any right or privilege
1.19 to the parties.

1.20 (b) The commissioner shall submit to the chair of the commission any negotiated
1.21 collective bargaining agreements, arbitration awards, compensation plans, or salaries for
1.22 legislative approval or disapproval. Negotiated agreements shall be submitted within five
1.23 days of the date of approval by the commissioner or the date of approval by the affected
1.24 state employees, whichever occurs later. Arbitration awards shall be submitted within five
1.25 days of their receipt by the commissioner. If the commission disapproves a collective
1.26 bargaining agreement, award, compensation plan, or salary, the commission shall specify

2.1 in writing to the parties those portions with which it disagrees and its reasons. If the
 2.2 commission approves a collective bargaining agreement, award, compensation plan, or
 2.3 salary, it shall submit the matter to the legislature to be accepted or rejected under this
 2.4 section.

2.5 (c) When the legislature is not in session, the commission may give interim approval to
 2.6 a negotiated collective bargaining agreement, salary, compensation plan, or arbitration
 2.7 award. ~~When the legislature is not in session, failure of the commission to disapprove a~~
 2.8 ~~collective bargaining agreement or arbitration award within 30 days constitutes approval.~~
 2.9 The commission shall submit the negotiated collective bargaining agreements, salaries,
 2.10 compensation plans, or arbitration awards for which it has provided approval to the entire
 2.11 legislature for ratification at a special legislative session called to consider them or at its
 2.12 next regular legislative session as provided in this section. Approval or disapproval by the
 2.13 commission is not binding on the legislature.

2.14 (d) When the legislature is not in session, the proposed collective bargaining agreement,
 2.15 arbitration decision, salary, or compensation plan must be implemented upon its approval
 2.16 by the commission, and state employees covered by the proposed agreement or arbitration
 2.17 decision do not have the right to strike while the interim approval is in effect. Wages and
 2.18 economic fringe benefit increases provided for in the agreement or arbitration decision paid
 2.19 in accordance with the interim approval by the commission are not affected, but the wages
 2.20 or benefit increases must cease to be paid or provided effective upon the rejection of the
 2.21 agreement, arbitration decision, salary, or compensation plan, or upon adjournment of the
 2.22 legislature without acting on it.

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

2.24 Sec. 2. Minnesota Statutes 2018, section 3.855, is amended by adding a subdivision to
 2.25 read:

2.26 **Subd. 6. Information required.** The commissioner of management and budget must
 2.27 submit to the Legislative Coordinating Commission the following information with the
 2.28 submission of a collective bargaining agreement or compensation plan under subdivisions
 2.29 2 and 3:

2.30 (1) for each agency and for each proposed agreement or plan, a comparison of biennial
 2.31 compensation costs under the current agreement or plan to the projected biennial
 2.32 compensation costs under the proposed agreement or plan, paid with funds appropriated
 2.33 from the general fund;

3.1 (2) for each agency and for each proposed agreement or plan, a comparison of biennial
 3.2 compensation costs under the current agreement or plan to the projected biennial
 3.3 compensation costs under the proposed agreement or plan, paid with funds appropriated
 3.4 from each fund other than the general fund;

3.5 (3) for each agency and for each proposed agreement or plan, an identification of the
 3.6 amount of the additional biennial compensation costs that are attributable to salary and
 3.7 wages and to the cost of nonsalary and nonwage benefits; and

3.8 (4) for each agency, for clauses (1) to (3), the impact of the aggregate of all agreements
 3.9 and plans being submitted to the commission.

3.10 **Sec. 3. [14.1275] RULES IMPACTING RESIDENTIAL CONSTRUCTION OR**
 3.11 **REMODELING; LEGISLATIVE NOTICE AND REVIEW.**

3.12 Subdivision 1. **Definition.** As used in this section, "residential construction" means the
 3.13 new construction or remodeling of any building subject to the Minnesota Residential Code.

3.14 Subd. 2. **Impact on housing cost; agency determination.** An agency must determine
 3.15 if implementation of a proposed rule, or any portion of a proposed rule, will, on average,
 3.16 increase the cost of residential construction or remodeling by \$1,000 or more per unit. The
 3.17 agency must make this determination before the close of the hearing record. Upon request
 3.18 of a party affected by the proposed rule, an administrative law judge must review and
 3.19 approve or disapprove an agency's determination that any portion of a proposed rule will
 3.20 increase the cost of a dwelling unit by \$1,000 or more.

3.21 Subd. 3. **Notice to legislature; legislative approval.** (a) If the agency determines that
 3.22 the impact of a proposed rule meets or exceeds the cost threshold provided in subdivision
 3.23 2, or if the administrative law judge separately confirms the cost of any portion of a rule
 3.24 exceeds the cost threshold provided in subdivision 2, the agency must notify, in writing,
 3.25 the chairs and ranking minority members of the policy committees of the house of
 3.26 representatives and the senate with jurisdiction over the subject matter of the proposed rule
 3.27 within ten days of the determination.

3.28 (b) If a committee of either the house of representatives or senate with jurisdiction over
 3.29 the subject matter of the proposed rule or a portion of a rule that meets or exceeds the
 3.30 threshold in subdivision 2 votes to advise an agency that the rule should not be adopted as
 3.31 proposed, the agency may not adopt the rule unless the rule is approved by a law enacted
 3.32 after the vote of the committee. Section 14.126, subdivision 2, applies to a vote of a
 3.33 committee under this subdivision.

4.1 Subd. 4. **Severability.** If the agency or an administrative law judge determines that part
4.2 of a proposed rule meets or exceeds the threshold provided in subdivision 2, but that a
4.3 severable portion of the proposed rule does not meet or exceed that threshold, the agency
4.4 may proceed to adopt the severable portions of the proposed rule regardless of whether a
4.5 legislative committee has voted under subdivision 3 to advise an agency that the rule should
4.6 not be adopted as proposed.

4.7 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to
4.8 administrative rules proposed on or after that date.

4.9 Sec. 4. Minnesota Statutes 2018, section 16A.103, subdivision 1a, is amended to read:

4.10 Subd. 1a. **Forecast parameters.** (a) Except as provided in paragraph (b), the forecast
4.11 must assume the continuation of current laws and reasonable estimates of projected growth
4.12 in the national and state economies and affected populations. Revenue must be estimated
4.13 for all sources provided for in current law. Expenditures must be estimated for all obligations
4.14 imposed by law and those projected to occur as a result of variables outside the control of
4.15 the legislature. Expenditure estimates must not include an allowance for inflation.

4.16 (b) Notwithstanding paragraph (a) and any appropriations established in law, all
4.17 expenditures for a department, institution, or agency of the executive branch estimated for
4.18 the November forecast must be zero if the scheduled year under section 16A.111, subdivision
4.19 3, for the department, institution, or agency coincides with the calendar year of the November
4.20 forecast. The forecasted expenditures in the February forecast must be zero for a department,
4.21 institution, or agency of the executive branch if they were zero in the preceding November
4.22 forecast as a result of the requirements of this paragraph. The commissioner shall not apply
4.23 this paragraph to forecasted expenditures for the current biennium but shall apply the
4.24 requirements of this paragraph to the forecasted expenditures for the next two bienniums.

4.25 Sec. 5. Minnesota Statutes 2018, section 16A.11, subdivision 3, is amended to read:

4.26 Subd. 3. **Part two: detailed budget.** (a) Part two of the budget, the detailed budget
4.27 estimates both of expenditures and revenues, must contain any statements on the financial
4.28 plan which the governor believes desirable or which may be required by the legislature.
4.29 The detailed estimates shall include the governor's budget arranged in tabular form.

4.30 (b) Tables listing expenditures for the next biennium must show the appropriation base
4.31 for each year. The appropriation base is the amount appropriated for the second year of the
4.32 current biennium. The tables must separately show any adjustments to the base required by
4.33 current law or policies of the commissioner of management and budget. For forecasted

5.1 programs, the tables must also show the amount of the forecast adjustments, based on the
5.2 most recent forecast prepared by the commissioner of management and budget under section
5.3 16A.103. For all programs, the tables must show the amount of appropriation changes
5.4 recommended by the governor, after adjustments to the base and forecast adjustments, and
5.5 the total recommendation of the governor for that year.

5.6 (c) The detailed estimates must include a separate line listing the total cost of professional
5.7 and technical service contracts for the prior biennium and the projected costs of those
5.8 contracts for the current and upcoming biennium. They must also include a summary of the
5.9 personnel employed by the agency, reflected as full-time equivalent positions.

5.10 (d) The detailed estimates for internal service funds must include the number of full-time
5.11 equivalents by program; detail on any loans from the general fund, including dollar amounts
5.12 by program; proposed investments in technology or equipment of \$100,000 or more; an
5.13 explanation of any operating losses or increases in retained earnings; and a history of the
5.14 rates that have been charged, with an explanation of any rate changes and the impact of the
5.15 rate changes on affected agencies.

5.16 (e) Notwithstanding paragraph (b) and any appropriation established in law, for any
5.17 department, institution, or agency in the executive branch that is in a scheduled year under
5.18 section 16A.111, subdivision 3, in the year prior to the year in which part two of the budget
5.19 must be submitted, the appropriation base for any appropriation made to that department,
5.20 institution, or agency for the next two biennia must be zero. The commissioner must display
5.21 the appropriation base established under this paragraph in the tables and narrative of part
5.22 two of the budget.

5.23 Sec. 6. **[16A.111] ZERO-BASED BUDGETING.**

5.24 Subdivision 1. Zero-based budget. (a) By October 15 of a scheduled year, each
5.25 department, institution, and agency of the executive branch must submit to the commissioner
5.26 of management and budget a proposed detailed operating budget for the biennium beginning
5.27 July 1 of the following year using zero-based budgeting, including a zero-based budget
5.28 plan. The commissioner shall provide technical assistance to enable each department,
5.29 institution, or agency to complete its proposed detailed operating budget as specified by the
5.30 commissioner.

5.31 (b) The commissioner shall adopt policies and procedures for each department, institution,
5.32 and agency to implement the provisions of this section.

6.1 (c) As used in this section, "zero-based budgeting" means a method of determining the
6.2 budget of a department, institution, or agency for which the budget of the department,
6.3 institution, or agency:

6.4 (1) is deemed to be zero in the November forecast, the February forecast, and the
6.5 governor's budget recommendations that precede the establishment of a biennial budget;
6.6 and

6.7 (2) has justified each proposed expenditure for the biennium covered by the budget as
6.8 if it were a new expenditure.

6.9 (d) Each department, institution, and agency of the executive branch that is required to
6.10 prepare a detailed operating budget and a zero-based budget plan under this subdivision
6.11 must submit the detailed operating budget and zero-based budget plan to the legislature.
6.12 This information must be submitted to the legislature at the same time that part two of the
6.13 governor's budget is required to be submitted under section 16A.11, subdivision 1.

6.14 Subd. 2. **Zero-based budget plan.** A zero-based budget plan includes the following
6.15 information:

6.16 (1) a description of activities that comprise the agency and a justification for the existence
6.17 of each activity by reference to statute or other legal authority;

6.18 (2) for each activity, a quantitative estimate of any adverse impacts that could reasonably
6.19 be expected should the activity be discontinued and a full description of the methods by
6.20 which the adverse impact is estimated;

6.21 (3) a list of quantifiable program outcomes that measure the efficiency and effectiveness
6.22 of each program;

6.23 (4) for each activity, an itemized account of expenditures that would be required to
6.24 maintain the activity at the minimum level of service required by statutory authority and a
6.25 concise statement of the quantity and quality of services required at that minimum level;

6.26 (5) for each activity, an itemized account of expenditures required to maintain the quantity
6.27 and quality of services being provided and the number of personnel required to accomplish
6.28 each program; and

6.29 (6) a ranking of all activities that shows the relative contribution of each activity to the
6.30 overall goals and purposes of the agency at current service levels.

6.31 Subd. 3. **Scheduled years.** (a) The scheduled year is 2020 and every ten years thereafter
6.32 for the following agencies: Department of Administration, Department of Agriculture,

7.1 Department of Commerce, Department of Corrections, Department of Education, Department
 7.2 of Human Rights, Department of Human Services, Department of Military Affairs,
 7.3 Department of Natural Resources, Department of Transportation, Minnesota Racing
 7.4 Commission, Office of Higher Education, and all advisory groups associated with these
 7.5 agencies.

7.6 (b) The scheduled year is 2022 and every ten years thereafter for the following agencies:
 7.7 Council for Minnesotans of African Heritage, Department of Employment and Economic
 7.8 Development, Department of Health, Department of Management and Budget, Department
 7.9 of Public Safety, Gambling Control Board, Metropolitan Council, Minnesota Council on
 7.10 Latino Affairs, Pollution Control Agency, Science Museum, the Minnesota State Academies,
 7.11 University of Minnesota, and all advisory groups associated with these agencies.

7.12 (c) The scheduled year is 2024 and every ten years thereafter for the following agencies:
 7.13 Agriculture Utilization Research Institute, all health-related boards listed in section 214.01,
 7.14 Council on Asian-Pacific Minnesotans, Department of Labor and Industry, Department of
 7.15 Revenue, Explore Minnesota Tourism, Minnesota State Colleges and Universities, Minnesota
 7.16 Indian Affairs Council, Peace Officer Standards and Training Board, Professional Educator
 7.17 Licensing and Standards Board, the Minnesota Historical Society, the Perpich Center for
 7.18 Arts Education, and all advisory groups associated with these agencies.

7.19 (d) The scheduled year is 2026 and every ten years thereafter for the following agencies:
 7.20 all non-health-related boards listed in section 214.01 except as otherwise provided in this
 7.21 section, Arts Board, Board of Animal Health, Board of School Administrators, Board of
 7.22 Soil and Water Resources, Department of Veterans Affairs, Emergency Medical Services
 7.23 Regulatory Board, Mayo Medical School, Office of Administrative Hearings, Public Utilities
 7.24 Commission, Uniform Laws Commission, Workers' Compensation Board, and all advisory
 7.25 groups associated with these agencies.

7.26 (e) The scheduled year is 2028 and every ten years thereafter for the following agencies:
 7.27 Amateur Sports Commission, Capitol Area Architectural and Planning Board, Board of
 7.28 Teaching, Bureau of Mediation Services, Campaign Finance and Public Disclosure Board,
 7.29 Destination Medical Center, Higher Education Facilities Authority, Iron Range Resources
 7.30 and Rehabilitation Board, Minnesota Conservation Corps, Minnesota Zoo, Private Detectives
 7.31 Board, and all advisory groups associated with these agencies.

7.32 **EFFECTIVE DATE.** This section is effective July 1, 2020.

8.1 Sec. 7. Minnesota Statutes 2018, section 179A.20, is amended by adding a subdivision to
8.2 read:

8.3 Subd. 2b. **Limited by appropriation.** The commissioner of management and budget
8.4 must not contract to pay more to employees of the state in compensation and benefits in
8.5 either year of the biennium than is permitted under the first spending plan submitted by July
8.6 31 in an odd-numbered year and approved by the commissioner under section 16A.14,
8.7 subdivisions 3 and 4.

8.8 Sec. 8. Minnesota Statutes 2019 Supplement, section 353.27, subdivision 3c, is amended
8.9 to read:

8.10 Subd. 3c. **Former MERF members; member and employer contributions.** (a) For
8.11 the period July 1, 2019, through December 31, 2031, the member contributions for former
8.12 members of the Minneapolis Employees Retirement Fund and by the former Minneapolis
8.13 Employees Retirement Fund-covered employing units are governed by this subdivision.

8.14 (b) The member contribution for a public employee who was a member of the former
8.15 Minneapolis Employees Retirement Fund on June 29, 2010, is 9.75 percent of the salary of
8.16 the employee.

8.17 (c) The employer regular contribution with respect to a public employee who was a
8.18 member of the former Minneapolis Employees Retirement Fund on June 29, 2010, is 9.75
8.19 percent of the salary of the employee.

8.20 (d) The annual employer supplemental contribution is the employing unit's share of
8.21 ~~\$21,000,000~~ \$37,000,000.

8.22 (e) Each employing unit's share under paragraph (d) is the amount determined from an
8.23 allocation between each employing unit in the portion equal to the unit's employer
8.24 supplemental contribution paid or payable under Minnesota Statutes 2012, section 353.50,
8.25 during calendar year 2014.

8.26 (f) The employer supplemental contribution amount under paragraph (d) for calendar
8.27 year 2019 must be invoiced by the executive director of the Public Employees Retirement
8.28 Association by July 1, 2019. For subsequent calendar years, the employer supplemental
8.29 contribution under paragraph (d) must be invoiced on January 31 of each year. The employer
8.30 supplemental contribution is payable in two parts, with the first half payable on or before
8.31 July 31 and with the second half payable on or before December 15. Late payments are
8.32 payable with interest, compounded annually, at the applicable rate or rates specified in

9.1 section 356.59, subdivision 3, per month for each month or portion of a month that has
9.2 elapsed after the due date.

9.3 (g) The employer supplemental contribution under paragraph (d) terminates on December
9.4 31, 2031.

9.5 **Sec. 9. FULL-TIME EQUIVALENT FREEZE.**

9.6 (a) The commissioner of management and budget shall determine the number of full-time
9.7 equivalent positions employed by each executive branch state agency as of June 30, 2020.

9.8 (b) Appropriations from any funds for fiscal year 2021 must not be used to pay salary
9.9 or benefits to employ more full-time equivalent positions than determined in paragraph (a).

9.10 (c) For purposes of this section, "executive branch state agency" has the meaning given
9.11 in Minnesota Statutes, section 16A.011, subdivision 12a, and does not include the Minnesota
9.12 State Colleges and Universities.

9.13 **Sec. 10. REDUCTION IN APPROPRIATIONS FOR UNFILLED POSITIONS.**

9.14 Subdivision 1. **Reduction required.** The general fund and nongeneral fund appropriations
9.15 to an executive branch state agency for agency operations for the biennium ending June 30,
9.16 2021, are reduced by the amount of salary and benefits savings that result from any positions
9.17 that have not been filled within 180 days of the posting of the position. This section applies
9.18 to positions that are first posted in fiscal years 2020 and 2021. Reductions made under this
9.19 paragraph must be reflected as reductions in agency base budgets for fiscal years 2022 and
9.20 2023. This section does not apply to any positions that require law enforcement training.

9.21 Subd. 2. **Reporting.** The commissioner of management and budget must report by
9.22 September 1 of each year to the chairs and ranking minority members of the senate and the
9.23 house of representatives finance committees regarding the amount of reductions in spending
9.24 by each agency under this section.

9.25 Subd. 3. **Application.** For purposes of this section, "executive branch state agency" has
9.26 the meaning given in Minnesota Statutes, section 16A.011, subdivision 12a, and does not
9.27 include the Minnesota State Colleges and Universities.

9.28 **EFFECTIVE DATE.** This section is effective July 1, 2020, and applies retroactively
9.29 to positions posted on or after July 1, 2019.

9.30 **Sec. 11. REPEALER.**

9.31 Minnesota Statutes 2019 Supplement, section 353.505, is repealed.

APPENDIX
Repealed Minnesota Statutes: 20-7808

353.505 STATE CONTRIBUTIONS; FORMER MERF DIVISION.

(a) On September 15, 2019, and annually thereafter, the state shall pay to the general employees retirement plan of the Public Employees Retirement Association, with respect to the former MERF division, \$16,000,000.

(b) State contributions under this section end on September 15, 2031.

(c) The commissioner of management and budget shall pay the contribution specified in this section. The amount required is appropriated annually from the general fund to the commissioner of management and budget.