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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4854

03/11/2024 Authored by Klevorn

The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act

1.2 relating to administrative law; making technical and policy changes to the

1.3 Administrative Procedure Act and Office of Administrative Hearings provisions;

1.4 amending Minnesota Statutes 2022, sections 14.05, subdivision 7; 14.08; 14.16,

1.5 subdivision 3; 14.26, subdivision 3a; 14.386; 14.388, subdivision 2; 14.3895,

1.6 subdivisions 2, 6; 14.48, subdivision 2; 14.62, subdivision 2a; 15A.083, subdivision

1.7 6a; 211B.33, subdivision 2; 211B.34, subdivisions 1, 2; 211B.35, subdivisions 1,

1.8 3; proposing coding for new law in Minnesota Statutes, chapters 13; 14; repealing

1.9 Minnesota Statutes 2022, section 211B.06.

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

1.11 **ARTICLE 1**

1.12 **DATA PRACTICES**

1.13 Section 1. **[13.95] ADMINISTRATIVE COURTS.**

1.14 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms have the meanings

1.15 given.

1.16 (b) "Administrative courts" means the Office of Administrative Hearings, Tax Court,

1.17 and Workers' Compensation Court of Appeals.

1.18 (c) "Court services" include hearings, settlement conferences, mediation, and the writing

1.19 of decisions and orders.

1.20 (d) "Health-related documents and data" means records, reports, or affidavits created

1.21 by medical, health care, or scientific professionals that relate to the past, present, or future

1.22 physical or mental health or condition of an individual, including but not limited to medical

1.23 history, examinations, diagnoses and treatment, prepetition screening reports, court-appointed

2.1 examiner reports, and any other documents or data designated by the administrative court
 2.2 as health-related.

2.3 Subd. 2. **Judicial work product.** All notes and memoranda or drafts thereof prepared
 2.4 by a judge or employee of an administrative court and used in providing a court service are
 2.5 confidential or protected nonpublic data.

2.6 Subd. 3. **Health-related documents and data.** Health-related documents and data
 2.7 included in a court file are private data on individuals.

2.8 Subd. 4. **Use of not public data in court.** Not public data as defined in section 13.02,
 2.9 subdivision 8a, may be disclosed orally during an administrative court proceeding or in
 2.10 written motions, affidavits, memoranda of law, orders, or decisions when the discussion is
 2.11 necessary and relevant to a legal matter or issue.

2.12 **ARTICLE 2**

2.13 **COURT OPERATIONS**

2.14 Section 1. Minnesota Statutes 2022, section 14.48, subdivision 2, is amended to read:

2.15 **Subd. 2. Chief administrative law judge.** (a) The office shall be under the direction of
 2.16 a chief administrative law judge who shall be learned in the law and appointed by the
 2.17 governor, with the advice and consent of the senate, for a term ending on June 30 of the
 2.18 sixth calendar year after appointment. Senate confirmation of the chief administrative law
 2.19 judge shall be as provided by section 15.066.

2.20 (b) The chief administrative law judge may hear cases and, in accordance with chapter
 2.21 43A, shall appoint a deputy chief judge and additional administrative law judges and
 2.22 compensation judges to serve in the office as necessary to fulfill the duties of the Office of
 2.23 Administrative Hearings.

2.24 (c) The chief administrative law judge may delegate to a subordinate employee the
 2.25 exercise of a specified statutory power or duty as deemed advisable, subject to the control
 2.26 of the chief administrative law judge. Every delegation must be by written order filed with
 2.27 the secretary of state. The chief administrative law judge is subject to the provisions of the
 2.28 Minnesota Constitution, article VI, section 6, the jurisdiction of the Board on Judicial
 2.29 Standards, and the provisions of the Code of Judicial Conduct.

2.30 (d) If a vacancy in the position of chief administrative law judge occurs, an acting or
 2.31 temporary chief administrative law judge must be named as follows:

3.1 (1) at the end of the term of a chief administrative law judge, the incumbent chief
3.2 administrative law judge may, at the discretion of the appointing authority, serve as acting
3.3 chief administrative law judge until a successor is appointed; and

3.4 (2) if at the end of a term of a chief administrative law judge the incumbent chief
3.5 administrative law judge is not designated as acting chief administrative law judge, or if a
3.6 vacancy occurs in the position of chief administrative law judge, the deputy chief judge
3.7 shall immediately become temporary chief administrative law judge without further official
3.8 action.

3.9 (e) The appointing authority of the chief administrative law judge may appoint a person
3.10 other than the deputy chief judge to serve as temporary chief administrative law judge and
3.11 may replace any other acting or temporary chief administrative law judge designated pursuant
3.12 to paragraph (d), clause (1) or (2).

3.13 **Sec. 2. [14.525] INTERPRETERS.**

3.14 The chief administrative law judge may enter contracts with interpreters identified by
3.15 the Supreme Court through the Court Interpreter Program. Interpreters may be utilized as
3.16 the chief administrative law judge directs. These contracts are not subject to the requirements
3.17 of chapters 16B and 16C.

3.18 **Sec. 3. Minnesota Statutes 2022, section 14.62, subdivision 2a, is amended to read:**

3.19 **Subd. 2a. Administrative law judge decision final; exception.** Unless otherwise
3.20 provided by law, the report or order of the administrative law judge constitutes the final
3.21 decision in the case unless the agency modifies or rejects it under subdivision 1 within 90
3.22 days after the record of the proceeding closes under section 14.61. When the agency fails
3.23 to act within 90 days on a licensing case, the agency must return the record of the proceeding
3.24 to the administrative law judge for consideration of disciplinary action. In all contested
3.25 cases where the report or order of the administrative law judge constitutes the final decision
3.26 in the case, the administrative law judge shall issue findings of fact, conclusions, and an
3.27 order within 90 days after the hearing record closes under section 14.61. Upon a showing
3.28 of good cause by a party or the agency, the chief administrative law judge may order a
3.29 reasonable extension of either of the two 90-day deadlines specified in this subdivision.
3.30 The 90-day deadline will be tolled while the chief administrative law judge considers a
3.31 request for reasonable extension so long as the request was filed and served within the
3.32 applicable 90-day period.

4.1 Sec. 4. Minnesota Statutes 2022, section 15A.083, subdivision 6a, is amended to read:

4.2 Subd. 6a. **Administrative law judge; salaries.** The salary of the chief administrative
 4.3 law judge is 98.52 percent of the salary of a chief district court judge. The salaries of the
 4.4 ~~assistant chief administrative law judge and administrative law judge supervisors~~ deputy
 4.5 chief judge and judge supervisors employed by the Office of Administrative Hearings are
 4.6 100 percent of the salary of a district court judge. The salary of an administrative law judge
 4.7 employed by the Office of Administrative Hearings is 98.52 percent of the salary of a district
 4.8 court judge as set under section 15A.082, subdivision 3.

4.9 ARTICLE 3

4.10 RULEMAKING

4.11 Section 1. Minnesota Statutes 2022, section 14.05, subdivision 7, is amended to read:

4.12 Subd. 7. **Electronic documents permitted.** An agency ~~may~~ must file rule-related
 4.13 documents with the Office of Administrative Hearings by electronic transmission in the
 4.14 manner approved by that office ~~and~~. An agency may file rule-related documents with the
 4.15 Office of the Revisor of Statutes by electronic transmission in the manner approved by that
 4.16 office.

4.17 Sec. 2. Minnesota Statutes 2022, section 14.08, is amended to read:

4.18 14.08 APPROVAL OF RULE AND RULE FORM; COSTS.

4.19 (a) One copy of a rule adopted under section 14.26 must be submitted by the agency to
 4.20 the chief administrative law judge. The chief administrative law judge shall request from
 4.21 the revisor certified copies of the rule when it is submitted by the agency under section
 4.22 14.26. Within five working days after the request for certification of the rule is received by
 4.23 the revisor, ~~excluding weekends and holidays~~, the revisor shall either return the rule with
 4.24 a certificate of approval of the form of the rule to the chief administrative law judge or
 4.25 notify the chief administrative law judge and the agency that the form of the rule will not
 4.26 be approved.

4.27 If the chief administrative law judge disapproves a rule, the agency may modify it and
 4.28 the agency shall submit one copy of the modified rule, approved as to form by the revisor,
 4.29 to the chief administrative law judge.

4.30 (b) One copy of a rule adopted after a public hearing must be submitted by the agency
 4.31 to the chief administrative law judge. The chief administrative law judge shall request from
 4.32 the revisor certified copies of the rule when it is submitted by the agency. Within five

5.1 working days after receipt of the request, the revisor shall either return the rule with a
 5.2 certificate of approval to the chief administrative law judge or notify the chief administrative
 5.3 law judge and the agency that the form of the rule will not be approved.

5.4 (c) If the revisor refuses to approve the form of the rule, the revisor's notice must revise
 5.5 the rule so it is in the correct form.

5.6 (d) After the agency has notified the chief administrative law judge that it has adopted
 5.7 the rule, the chief administrative law judge shall promptly file ~~four paper copies~~ or an
 5.8 electronic copy of the adopted rule in the Office of the Secretary of State. The secretary of
 5.9 state shall forward one copy of each rule filed to the agency, to the revisor of statutes, and
 5.10 to the governor.

5.11 (e) The chief administrative law judge shall assess an agency for the actual cost of
 5.12 processing rules under this section. Each agency shall include in its budget money to pay
 5.13 the assessments. Receipts from the assessment must be deposited in the administrative
 5.14 hearings account established in section 14.54.

5.15 Sec. 3. Minnesota Statutes 2022, section 14.16, subdivision 3, is amended to read:

5.16 Subd. 3. **Filing.** After the agency has provided the chief administrative law judge with
 5.17 a signed order adopting the rule, the chief administrative law judge shall promptly file ~~four~~
 5.18 ~~paper copies~~ or an electronic copy of the adopted rule in the Office of the Secretary of State.
 5.19 The secretary of state shall forward one copy of each rule filed to the agency, to the revisor
 5.20 of statutes, and to the governor.

5.21 Sec. 4. Minnesota Statutes 2022, section 14.26, subdivision 3a, is amended to read:

5.22 Subd. 3a. **Filing.** If the rule is approved, the administrative law judge shall promptly
 5.23 file ~~four paper copies~~ or an electronic copy of the adopted rule in the Office of the Secretary
 5.24 of State. The secretary of state shall forward one copy of each rule to the revisor of statutes,
 5.25 to the agency, and to the governor.

5.26 Sec. 5. Minnesota Statutes 2022, section 14.386, is amended to read:

5.27 **14.386 PROCEDURE FOR ADOPTING EXEMPT RULES; DURATION.**

5.28 (a) A rule adopted, amended, or repealed by an agency, under a statute enacted after
 5.29 January 1, 1997, authorizing or requiring rules to be adopted but excluded from the
 5.30 rulemaking provisions of chapter 14 or from the definition of a rule, has the force and effect
 5.31 of law only if:

6.1 (1) the revisor of statutes approves the form of the rule by certificate;

6.2 (2) the person authorized to adopt the rule on behalf of the agency signs an order adopting
6.3 the rule;

6.4 (3) the Office of Administrative Hearings approves the rule as to its legality within 14
6.5 days after the agency submits it for approval and files ~~four paper copies~~ or an electronic
6.6 copy of the adopted rule with the revisor's certificate in the Office of the Secretary of State;
6.7 and

6.8 (4) a copy is published by the agency in the State Register.

6.9 The secretary of state shall forward one copy of the rule to the governor.

6.10 A statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but
6.11 excluded from the rulemaking provisions of chapter 14 or from the definition of a rule does
6.12 not excuse compliance with this section unless it makes specific reference to this section.

6.13 (b) A rule adopted under this section is effective for a period of two years from the date
6.14 of publication of the rule in the State Register. The authority for the rule expires at the end
6.15 of this two-year period.

6.16 (c) The chief administrative law judge shall adopt rules relating to the rule approval
6.17 duties imposed by this section and section 14.388, including rules establishing standards
6.18 for review.

6.19 (d) This section does not apply to:

6.20 (1) any group or rule listed in section 14.03, subdivisions 1 and 3, except as otherwise
6.21 provided by law;

6.22 (2) game and fish rules of the commissioner of natural resources adopted under section
6.23 84.027, subdivision 13, or sections 97A.0451 to 97A.0459;

6.24 (3) experimental and special management waters designated by the commissioner of
6.25 natural resources under sections 97C.001 and 97C.005;

6.26 (4) game refuges designated by the commissioner of natural resources under section
6.27 97A.085; or

6.28 (5) transaction fees established by the commissioner of natural resources for electronic
6.29 or telephone sales of licenses, stamps, permits, registrations, or transfers under section
6.30 84.027, subdivision 15, paragraph (a), clause (3).

7.1 (e) If a statute provides that a rule is exempt from chapter 14, and section 14.386 does
7.2 not apply to the rule, the rule has the force of law unless the context of the statute delegating
7.3 the rulemaking authority makes clear that the rule does not have force of law.

7.4 Sec. 6. Minnesota Statutes 2022, section 14.388, subdivision 2, is amended to read:

7.5 Subd. 2. **Notice.** An agency proposing to adopt, amend, or repeal a rule under this section
7.6 must give electronic notice of its intent in accordance with section 16E.07, subdivision 3,
7.7 and notice by United States mail or electronic mail to persons who have registered their
7.8 names with the agency under section 14.14, subdivision 1a. The notice must be given no
7.9 later than the date the agency submits the proposed rule to the Office of Administrative
7.10 Hearings for review of its legality and must include:

7.11 (1) the proposed rule, amendment, or repeal;

7.12 (2) an explanation of why the rule meets the requirements of the good cause exemption
7.13 under subdivision 1; and

7.14 (3) a statement that interested parties have five ~~business~~ working days after the date of
7.15 the notice to submit comments to the Office of Administrative Hearings.

7.16 Sec. 7. Minnesota Statutes 2022, section 14.3895, subdivision 2, is amended to read:

7.17 Subd. 2. **Notice plan; prior approval.** The agency shall draft a notice plan under which
7.18 the agency will make reasonable efforts to notify persons or classes of persons who may
7.19 be significantly affected by the rule repeal by giving notice of its intention in newsletters,
7.20 newspapers, or other publications, or through other means of communication. Before
7.21 publishing the notice in the State Register and implementing the notice plan, the agency
7.22 shall obtain prior approval of the notice plan by ~~the chief administrative law judge~~ an
7.23 administrative law judge in the Office of Administrative Hearings.

7.24 Sec. 8. Minnesota Statutes 2022, section 14.3895, subdivision 6, is amended to read:

7.25 Subd. 6. **Legal review.** Before publication of the final rule in the State Register, the
7.26 agency shall submit the rule to the ~~chief~~ administrative law judge in the Office of
7.27 Administrative Hearings. The ~~chief~~ administrative law judge shall within 14 days approve
7.28 or disapprove the rule as to its legality and its form to the extent the form relates to legality.

8.1 **ARTICLE 4**

8.2 **FAIR CAMPAIGN PRACTICES**

8.3 Section 1. Minnesota Statutes 2022, section 211B.33, subdivision 2, is amended to read:

8.4 Subd. 2. **Recommendation.** (a) If the administrative law judge determines that the
8.5 complaint does not set forth a prima facie violation of chapter 211A or 211B, the
8.6 administrative law judge must dismiss the complaint.

8.7 ~~(b) If the administrative law judge determines that the complaint sets forth a prima facie~~
8.8 ~~violation of section 211B.06 and was filed within 60 days before the primary or special~~
8.9 ~~election or within 90 days before the general election to which the complaint relates, the~~
8.10 ~~administrative law judge must conduct an expedited probable cause hearing under section~~
8.11 ~~211B.34.~~

8.12 ~~(e)~~ (b) If the administrative law judge determines that the complaint sets forth a prima
8.13 facie violation of a provision of chapter 211A or 211B, ~~other than section 211B.06,~~ and that
8.14 the complaint was filed within 60 days before the primary or special election or within 90
8.15 days before the general election to which the complaint relates, the administrative law judge,
8.16 on request of any party, must conduct an expedited probable cause hearing under section
8.17 211B.34.

8.18 ~~(d)~~ (c) If the administrative law judge determines that the complaint sets forth a prima
8.19 facie violation of chapter 211A or 211B, and was ~~filed more than~~ not filed within 60 days
8.20 before the primary or special election or ~~more than~~ 90 days before the general election to
8.21 which the complaint relates, the administrative law judge must schedule an evidentiary
8.22 hearing under section 211B.35.

8.23 Sec. 2. Minnesota Statutes 2022, section 211B.34, subdivision 1, is amended to read:

8.24 Subdivision 1. **Time for review.** The assigned administrative law judge must hold a
8.25 probable cause hearing on the complaint no later than three business days after ~~receiving~~
8.26 ~~the assignment if~~ determining the complaint sets forth a prima facie violation of chapter
8.27 211A or 211B, an expedited hearing is required by section 211B.33, except that for good
8.28 cause the administrative law judge may hold the hearing no later than seven days after
8.29 ~~receiving the assignment~~ the prima facie determination. If an expedited hearing is not
8.30 required by section 211B.33, because no party requested one under section 211B.33,
8.31 subdivision 2, paragraph (b), the administrative law judge must hold the hearing not later
8.32 than 30 days after ~~receiving the assignment~~ determining the complaint sets forth a prima
8.33 facie violation of chapter 211A or 211B.

9.1 Sec. 3. Minnesota Statutes 2022, section 211B.34, subdivision 2, is amended to read:

9.2 Subd. 2. **Disposition.** ~~At~~ After the probable cause hearing, the administrative law judge
9.3 must make one of the following determinations within three business days after the hearing
9.4 record closes:

9.5 (a) The complaint is frivolous, or there is no probable cause to believe that the violation
9.6 of law alleged in the complaint has occurred. If the administrative law judge makes either
9.7 determination, the administrative law judge must dismiss the complaint.

9.8 (b) There is probable cause to believe that the violation of law alleged in the complaint
9.9 has occurred. If the administrative law judge so determines, the chief administrative law
9.10 judge must schedule the complaint for an evidentiary hearing under section 211B.35.

9.11 Sec. 4. Minnesota Statutes 2022, section 211B.35, subdivision 1, is amended to read:

9.12 Subdivision 1. **Deadline for hearing.** When required by section 211B.33, subdivision
9.13 2, paragraph (c), or by section 211B.34, subdivision 2 or 3, the chief administrative law
9.14 judge must assign the complaint to a panel of three administrative law judges for an
9.15 evidentiary hearing. The hearing must be held within the following times:

9.16 (1) ten days after the complaint was assigned to the panel, if an expedited probable cause
9.17 hearing was requested or required under section 211B.33;

9.18 (2) 30 days after the complaint was filed, if it was filed within 60 days before the primary
9.19 or special election or within 90 days before the general election to which the complaint
9.20 relates; or

9.21 (3) 90 days after the complaint was filed, if it was filed at any other time.

9.22 For good cause shown, the panel may extend the deadline set forth in clause (2) or (3)
9.23 by 60 days.

9.24 Sec. 5. Minnesota Statutes 2022, section 211B.35, subdivision 3, is amended to read:

9.25 Subd. 3. **Time for disposition.** The panel must dispose of the complaint:

9.26 (1) within three business days after the hearing record closes, if an expedited probable
9.27 cause hearing was required by section 211B.33; and

9.28 (2) within 14 days after the hearing record closes, if an expedited probable cause hearing
9.29 was not required by section 211B.33.

10.1 Sec. 6. **REPEALER.**

10.2 Minnesota Statutes 2022, section 211B.06, is repealed.

211B.06 FALSE POLITICAL AND CAMPAIGN MATERIAL.

Subdivision 1. **Gross misdemeanor.** (a) A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

(b) A person is guilty of a misdemeanor who intentionally participates in the drafting of a letter to the editor with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat any candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

Subd. 2. **Exception.** Subdivision 1 does not apply to any person or organization whose sole act is, in the normal course of their business, the printing, manufacturing, or dissemination of the false information.