

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4317

(SENATE AUTHORS: KORAN)

DATE
03/12/2020

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OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
1.2 relating to commerce; authorizing recovery of state-imposed examination or
1.3 investigation costs in certain circumstances; regulating informal disposition of
1.4 examinations and authority to charge licensees for the cost of examinations; limiting
1.5 certain assessments; reducing appropriations for unfilled positions at the Department
1.6 of Commerce; limiting growth in employment for the Department of Commerce;
1.7 requiring a report; amending Minnesota Statutes 2018, sections 15.471, subdivisions
1.8 4, 6; 46.131, by adding a subdivision; 60A.033, by adding a subdivision.

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

1.10 Section 1. Minnesota Statutes 2018, section 15.471, subdivision 4, is amended to read:

1.11 Subd. 4. **Expenses.** "Expenses" means the costs incurred by the party in the litigation,
1.12 including:

- 1.13 (1) filing fees;
- 1.14 (2) subpoena fees and mileage;
- 1.15 (3) transcript costs and court reporter fees;
- 1.16 (4) expert witness fees;
- 1.17 (5) the reasonable cost of any study, analysis, engineering report, test, or project;
- 1.18 (6) photocopying and printing costs;
- 1.19 (7) postage and delivery costs; ~~and~~
- 1.20 (8) service of process fees; and
- 1.21 (9) state-imposed examination or investigative costs.

2.1 Sec. 2. Minnesota Statutes 2018, section 15.471, subdivision 6, is amended to read:

2.2 Subd. 6. **Party.** (a) Except as modified by paragraph (b), "party" means a person named
2.3 or admitted as a party, or seeking and entitled to be admitted as a party, in a court action or
2.4 contested case proceeding, or a person admitted by an administrative law judge for limited
2.5 purposes, and who is:

2.6 ~~(1) an unincorporated business, partnership, corporation, association, or organization,~~
2.7 ~~having not more than 500 employees at the time the civil action was filed or the contested~~
2.8 ~~case proceeding was initiated; and.~~

2.9 ~~(2) an unincorporated business, partnership, corporation, association, or organization~~
2.10 ~~whose annual revenues did not exceed \$7,000,000 at the time the civil action was filed or~~
2.11 ~~the contested case proceeding was initiated.~~

2.12 (b) "Party" also includes a partner, officer, shareholder, member, or owner of an entity
2.13 described in paragraph (a), ~~clauses (1) and (2).~~

2.14 (c) "Party" does not include a person providing services pursuant to licensure or
2.15 reimbursement on a cost basis by the Department of Health or the Department of Human
2.16 Services, when that person is named or admitted or seeking to be admitted as a party in a
2.17 matter which involves the licensing or reimbursement rates, procedures, or methodology
2.18 applicable to those services.

2.19 **EFFECTIVE DATE.** This section is effective the day following final enactment and
2.20 applies to contested cases initiated on or after that date.

2.21 Sec. 3. Minnesota Statutes 2018, section 46.131, is amended by adding a subdivision to
2.22 read:

2.23 Subd. 12. **Limitations on assessments.** The sum of the assessments levied under
2.24 subdivision 7 for a fiscal period beginning on July 1 and ending June 30 thereafter must not
2.25 exceed 100 percent of the sum of the assessments levied for the fiscal period beginning one
2.26 year prior.

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

2.28 Sec. 4. Minnesota Statutes 2018, section 60A.033, is amended by adding a subdivision to
2.29 read:

2.30 Subd. 11. **Informal disposition.** The commissioner must in good faith attempt to
2.31 informally resolve any alleged violations of law identified during the examination or

3.1 investigation using a consent order or other informal resolution or disposition. The terms
3.2 of a consent order or other informal disposition that prescribes compliance requirements
3.3 must not be inconsistent with or supersede the requirements of Minnesota law, nor may the
3.4 terms be identical or substantially similar to the compliance requirements in a consent order
3.5 entered into by another licensee. Any consent order containing identical or substantially
3.6 similar requirements is unlawful rulemaking in violation of section 14.381, with a licensee
3.7 having the remedies available for the violation. If requested by a licensee, the commissioner
3.8 or the commissioner's designee must enter into any informally agreed upon consent order
3.9 contemporaneously with its delivery to the department. Upon the department's delivery of
3.10 a proposed informal settlement, the department's authority under sections 45.027, subdivision
3.11 1, clause (8); 60A.03, subdivision 5; and 60A.031, subdivision 3, paragraph (c), to charge
3.12 the licensee for the costs of the investigation or examination terminates.

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

3.14 Sec. 5. **LIMITING THE GROWTH IN DEPARTMENT OF COMMERCE**
3.15 **EMPLOYMENT BASED ON STATE POPULATION.**

3.16 The percentage growth of the total number of full-time equivalent positions employed
3.17 by the Department of Commerce from one fiscal year to the next must not exceed the
3.18 percentage growth of the state population during the same time frame, as projected by the
3.19 state demographer.

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

3.21 Sec. 6. **REDUCING APPROPRIATIONS FOR UNFILLED POSITIONS.**

3.22 The general fund and nongeneral fund appropriations to the Department of Commerce
3.23 for agency operations for the biennium ending June 30, 2021, are reduced for salary and
3.24 benefit amounts attributable to positions that are not filled within 180 days of the job posting
3.25 for the position. This section applies only to positions that are posted in fiscal years 2020
3.26 and 2021. Reductions made under this section must be reflected as reductions in agency
3.27 base budgets for fiscal years 2022 and 2023. The commissioner of management and budget
3.28 must report to the chairs and ranking minority members of the senate and the house of
3.29 representatives committees having jurisdiction over commerce and finance regarding the
3.30 amount of appropriations reductions under this section. This section expires December 31,
3.31 2021.

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