

MSBA

LEGISLATIVE SUMMARY

2009 LEGISLATION

REGULAR SESSION

CHAPTER 5 (H.F. No. 886) – STATE BALANCED BUDGET REQUIREMENTS

This Act amends the state's balanced budget requirements, which normally only apply to a two year period, and provides that a budget proposed by the Governor and enacted for fiscal years 2010 and 2011 must also provide for a balanced general fund budget in fiscal years 2012 and 2013.

This Act was effective March 3, 2009.

CHAPTER 20 (S.F. No. 811) – MCLEOD WEST SCHOOL DISTRICT REORGANIZATION OPERATING DEBT

The McLeod West School District will be consolidating with three other districts. This Act allows McLeod West to issue general obligation bonds without an election in an amount not to exceed its reorganization operating debt. The bonds must be repaid within six years of issuance. The bonded debt remains payable by the taxable property located within the boundaries of the former McLeod West School District.

This Act was effective April 17, 2009.

CHAPTER 24 (S.F. No. 33) – TYPE III SCHOOL BUS DRIVERS

This Act makes a variety of changes in the requirements applicable to Type III school bus drivers that were enacted in 2008. It clarifies some requirements and increases others.

It provides that the holder of a class A, B, C or D drivers' license, without a school bus endorsement, may operate a Type III vehicle under the conditions specified in the law.

The Act continues to require a policy that provides for annual training and certification of all Type III drivers and specifies that that policy must now require compliance with the provisions concerning reporting convictions of certain driving offenses to the employer within ten (10) days of the date of conviction.

The Act requires that, except as provided below, the operator's employer must require preemployment drug and alcohol testing for applicants for Type III operator positions and specifies that current operators must comply with the employer's current policy. The testing for drivers employed primarily to operate Type III buses is the same as for other drivers.

The 2008 Act provided that an operator whose normal duties did not include operating a Type III vehicle could operate the vehicle and be exempt from several of the provisions of the law. The interpretation of the language regarding normal duties by the Department of Public Safety created problems for school districts. This Act provides that an employee of a school district who is not employed for the sole purpose of operating a Type III vehicle is exempt from the physical examination requirements and the preemployment drug and alcohol testing requirements. That employee will now, however, be subject to the background check, the annual driver's license verification and the 10 day reporting of convictions requirements from which he or she was previously exempt, and will continue to be subject to the annual training and certification requirements, the student training requirements and the provisions providing that a person may not operate a Type III vehicle after conviction of certain disqualifying offenses. The documentation of meeting these requirements must be maintained for each Type III vehicle operator and must be available for inspection.

Note that Chapter 94 defines "annually" for purposes of the driver's license verification requirement to mean at least 380 days from the initial or previous evaluation and requires the verification to be done through the National Driver Register or the Minnesota Department of Public Safety.

This Act was effective April 24, 2009.

CHAPTER 37 (H.F. No. 2123) — OMNIBUS NATURAL RESOURCES AND ENVIRONMENT

This Act provides that the Director of the Office of Energy Security, in consultation with the Commissioner of Education, schools, school districts, and solar

industry experts, must study the economic and technical feasibility of bulk installation of solar photovoltaic panels on school buildings in the state. The study must use a power-purchase agreement model in which a private company would pay for, install, and own the solar photovoltaic panels. The Act requires the Director of the Office of Energy Security to report to the Legislature, no later than January 15, 2010, the results of the feasibility study, including whether the proposed model would reduce carbon emissions and result in savings to school districts. This provision was effective May 8, 2009.

CHAPTER 59 (S.F. No. 538) – OMNIBUS PUBLIC SAFETY

This Act provides that a person eighteen years of age or older who uses the Internet or any other electronic device to engage in communication with a child, or someone the person reasonably believes is a child, relating to or describing sexual conduct, is guilty of a felony. This provision is effective August 1, 2009, and applies to crimes committed on or after that date.

CHAPTER 77 (H.F. No. 885) – OMNIBUS TAX II - VETOED

CHAPTER 78 (H.F. No. 2088) – ECONOMIC DEVELOPMENT AND HOUSING II

This Act makes various changes to the unemployment insurance law provisions.

The Act also makes various changes in the laws relating to prevailing wage and compliance orders by the Department of Labor and Industry for repeated violations of those laws. It also provides that for each employer subject to the prevailing wage law that is performing work on public works projects funded in whole or in part with state funds, that employer shall furnish under oath signed by an owner or officer of an employer to the contracting authority and the project owner every two weeks, a certified payroll report with respect to the wages and benefits paid to each employee during the preceding weeks specifying for each employee: name; identifying numbers; prevailing wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of the benefit administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs; and any other information the Commissioner finds necessary and appropriate to enforce the prevailing wage laws.

The Act also revises the definition of prevailing wage rate to mean the hourly basic rate of pay plus the contribution paid to or for the largest number of workers

engaged in the same class of labor within the area for medical or hospital care, pensions on retirement or death, compensation for injury or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state or local law to provide any of those benefits, the amount of: (1) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan or program; and (2) the rate of cost to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out the financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

The Act requires the contracting authority (i.e. school district) to incorporate into its proposals and all contracts the applicable wage determinations for the contract along with the contract language provided by the Commissioner of Labor and Industry to notify the contractor and all subcontractors of the applicability of the prevailing wage law. Failure to incorporate the determination or provided contract language into the contracts shall make the school district liable for making whole the contractor or subcontractor for any increases in the wages paid, including unemployment taxes and reasonable administrative costs based on the appropriate prevailing wage due to the laborers or mechanics working on the project.

The Act enacts a new requirement that provides that a public employer is prohibited from knowingly purchasing or acquiring, furnishing, or requiring an employee to purchase or acquire for wear or use while on duty, any of the following items if the item is not manufactured in the United States of America: (1) any uniform or other item of wearing apparel over which an employee has no discretion in selecting except for selecting the proper size; or (2) safety equipment or protective accessories. The Act further provides that preference must be given to purchases from manufacturers who pay an average annual income, including wages and benefits, equal to at least 150% of the federal poverty guideline adjusted for a family size of four. For purposes of this law, public employer includes a school district. The Act further provides that notwithstanding these earlier provisions, a public employer may purchase or require, furnish, or require an employee to purchase or acquire items listed above manufactured outside of the United States if similar items are not manufactured or available for purchase in the United States. This section is effective January 1, 2010, or upon expiration of valid contracts for such equipment and apparel entered into by public employers prior to June 1, 2009, whichever is later.

CHAPTER 88 (H.F. No. 1298) – OMNIBUS TAX POLICY AND PUBLIC FINANCE

This Act makes various tax policy and technical changes to Minnesota's tax laws. It also deals with a variety of local tax issues.

This Act provides that for purposes of the career and technical levy, a school district with a career and technical program that participates in a secondary tuition agreement or an inter-district cooperation agreement must allocate its career and technical levy authority among participating districts.

The Act also broadens the employees to which the retired employee health benefits levy applies. A similar provision is included in the K-12 Omnibus bill.

Under current law, the wind energy production tax is distributed 80% to counties, 14% to cities and townships and 6% to school districts. The portion distributed to school districts is then reduced from general education revenue. This Act provides that beginning with distributions in 2010, 80% will go to counties and 20% to cities and townships. School districts will not receive any revenue from this tax beginning in 2010.

The Act revises the method of determining the first tier limit for agricultural homestead property for assessment year 2010 and thereafter.

This Act would allow a school district to continue to issue bonds without an election for OPEB liabilities. However, this authority was subsequently taken away in the Omnibus E-12 finance bill (Chapter 96) which requires approval by school district voters prior to the issuance of OPEB bonds sold after October 1, 2009.

Similar to the provisions in the E-12 Omnibus bill, this Act repeals the requirement for a truth-in-taxation hearing. It requires the truth-in-taxation notice to state the time and place of the taxing authority's regularly scheduled meetings at which the budget and levy will be discussed and the final budget and levy determined. The meetings must occur after November 24. The public must be allowed to speak at the meetings and the meetings shall not be held before 6:00 o'clock p.m. A school district is no longer required to hold a separate truth-in-taxation hearing.

The Act amends the state school district credit enhancement law and provides that whenever the state pays under that law interest on bonds for which the school district issuer is entitled to federal interest subsidy payments (i.e. Qualified School Construction Bonds or Build America Bonds), the state has the right to be reimbursed in full by the school district for that payment from any interest subsidy payments made to the school district by the federal government for those bonds.

The Act amends the mail ballot election law and deletes the requirement that no more than two questions may be submitted to the voters at a mail ballot election.

The Act eliminates the sales tax exemption for alcoholic beverages purchased by a school district or other political subdivision.

The Act makes various changes in the distribution of certain taconite taxes to school districts.

The Act makes various changes in the allocation of pension-related amortization or supplementary amortization state aid to the Minneapolis and St. Paul school districts and makes those changes retroactive for aid payable in 2003 and thereafter.

CHAPTER 94 (H.F. No. 1122) – AGRICULTURE AND VETERANS OMNIBUS

This Act amends the Veterans Preference statute that is applicable to school districts and other political subdivisions of the state. This Act provides that when a veteran is dismissed from a state or local government position of employment after July 1, 2009, the veteran has the irrevocable option of using the procedures described in the Veterans Preference sections or the procedures provided in the collective bargaining agreement applicable to the person, but not both. If the veteran elects to use the hearing procedures in the Veterans Preference sections, the matters governed by those sections must not be considered grievances under a collective bargaining agreement and if a veteran elects to appeal the dispute through those sections, the veteran is precluded from making an appeal under the grievance procedure of the collective bargain agreement. This provision is effective July 1, 2009.

CHAPTER 95 (S.F. No. 2083) – HIGHER EDUCATION OMNIBUS

This Act provides that an eligible student who has completed at least one online course while in high school or in a home school setting may receive an additional postsecondary scholarship award of up to \$150. The additional award is available to new applicants for terms of enrollment beginning on or after July 1, 2009. The online course must be offered by a provider certified by the Minnesota Department of Education or by an eligible postsecondary institution as defined by law. If the official high school transcript is not sufficient to document the completion of the online course, the student may be required to submit further documentation.

The Act also provides that the Office of Higher Education shall make available to all residents beginning in seventh grade through adulthood information about planning and preparing for postsecondary opportunities. Information must be provided to all

seventh grade students and their parents annually by September 30th about planning for postsecondary education.

CHAPTER 96 (H.F. No. 2) – E-12 OMNIBUS

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CHAPTER 101 (S.F. No. 2082) – STATE GOVERNMENT FINANCE OMNIBUS

This Act establishes procedures for investigation of and liability for making false or fraudulent claims against the state or a political subdivision. These provisions are effective July 1, 2010.

This Act also amends the Uniform Municipal Contracting law to provide that municipalities, including school districts, may contract for purchase of supplies, materials, or equipment by utilizing contracts that are available through the state's cooperative purchasing venture. For a contract estimated to exceed \$25,000, a municipality must consider the availability, price and quality of supplies, materials or equipment available through the state's cooperative purchasing venture before purchasing from another source. This section is effective July 1, 2009. This was the only "shared services" provision that was adopted in 2009.

CHAPTER 107 (S.F. No. 567) – CARDIOPULMONARY RESUSCITATION OR AUTOMATIC EXTERNAL DEFIBRILLATOR INSTRUCTION

This Act provides that school districts are encouraged to include cardiopulmonary resuscitation and automatic external defibrillator instruction as part of their curriculum. Schools offering cardiopulmonary resuscitation or automatic external defibrillator instruction must use training that has been developed (1) by the American Heart Association or the American Red Cross and incorporate psychomotor skills to support the instruction; or (2) using nationally recognized, evidence-based guidelines for cardiopulmonary resuscitation and incorporates psychomotor skills to support the instruction.

This Act is effective August 1, 2009.

CHAPTER 115 (H.F. No. 523) – SCHOOL BACKGROUND CHECKS

This Act amends the current background check requirements and provides that at the time a school board or other hiring authority conducts the criminal history background check required under the law on an individual offered employment as a teacher, the school board or other hiring authority must contact the Board of Teaching to determine whether the board has taken any disciplinary action against the teacher (not just disciplinary action based on sexual misconduct or attempted sexual misconduct between the teacher and the student). The Act provides that the Board of Teaching must provide access to public data that it maintains that relates to the substance of any disciplinary action taken against a teacher. The Act also allows the school board or other hiring authority to require the individual to provide information in the employment application regarding all current and previous disciplinary actions in Minnesota and other states taken against the individual's teaching license. The Act clarifies that disciplinary action does not include an action based on court-ordered child support or maintenance payment arrearages or delinquent state taxes.

This Act is effective May 20, 2009.

CHAPTER 133 (H.F. No. 1053) – AUTOMATIC VOTER REGISTRATION

VETOED

CHAPTER 138 (S.F. No. 657) – FEDERAL STIMULUS FUNDING FOR ENERGY PROGRAMS

This Act provides legislative direction for the use of federal stimulus money for energy programs. The Act directs the Commissioner of Commerce to award grants to local units of government to enhance energy efficiency and reduce energy use. The Act also directs the Commissioner to award grants to local governments and school districts to make energy efficiency improvements in existing local government and school district facilities. The use of the stimulus funds must be coordinated with the local public building enhanced energy efficiency program under Minnesota Statutes, Section 216C.43 or other available financing programs. It states that the Commissioner shall give priority to lighting upgrades, energy-efficient windows, energy recommissioning, and other cost-effective energy products that are ready for immediate implementation. It provides that the Commissioner may require a local government or school district, as a condition of receiving a grant, to commit to implement future activities, including but not limited to staff training, that are designed to create additional energy or operating savings to the local government. The Act requires the Commissioner to coordinate with the Department of Education to prioritize school district projects for funding.

The Act also establishes a school district and local government renewable energy grant program. It provides that the Commissioner shall award grants to units of local government to finance the purchase and installation of a renewable energy system or a geothermal heating and cooling system. The Act establishes procedures for applying for renewable energy grants and for the award of grants. The Act provides that a school district must integrate information about the renewable energy system for which grant is received in its educational program. The Act then specifies the maximum amount of grants for different types of renewable energy programs. The Act also includes various other provisions relating to these programs and the grants that may be available thereunder.

This Act was effective May 22, 2009.

CHAPTER 142 (S.F. No. 1447) – HEALTH AND HUMAN SERVICES LICENSING

This Act makes changes to the personnel data provisions of the Data Practices Act and provides that personal home contact information may be used to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of operation of a government entity. An employee's personal home contact information may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation of either government entity. Otherwise, that data will remain private. This provision is effective August 1, 2009.

CHAPTER 152 (H.F. No. 1849) – LOCAL GOVERNMENT MANDATES

This Act amends the requirements for a newspaper to qualify as a legal newspaper and reduces the number of copies that must be regularly delivered to paying subscribers by a qualified newspaper from 500 to 400 copies. This was intended to make more newspapers eligible to serve as legal newspapers.

Current law requires the governing body of each school district to have on record a policy that controls travel outside the state of Minnesota for elected school district officials. This Act eliminates the requirement that that policy must be reviewed annually by the school board.

This Act is effective August 1, 2009.

CHAPTER 162 (S.F. No. 1331) – OMNIBUS ELECTION BILL - VETOED

CHAPTER 164 (S.F. No. 971) – HARASSMENT, BULLYING, INTIMIDATION, AND VIOLENCE POLICY - VETOED

CHAPTER 169 (S.F. No. 191) – OMNIBUS PENSION BILL

This Act makes various changes in the state pension laws and has various effective dates.

This Act makes various statutory changes necessary to conform with the dissolution of the Minnesota Postretirement Investment Fund.

The Act makes various administrative and other changes to PERA, TRA and other state public pension plan provisions. Further inquiries regarding these changes should be directed to the applicable retirement system.

Under legislation passed, PERA's normal termination requirements and earning limits are waived if certain requirements are met. Those requirements include: an employee must be age 62 or older, vested member of PERA and employed at least half time for the five years preceding the offer of a phased retirement. Additionally, the agreement must reduce the hours of work by at least 25 percent and will not exceed 1,044 hours. Initial phased retirement cannot exceed one year. However, it may be renewed for up to an additional year. The total period cannot exceed five years. The 30-day break in service provision is waived in this new provision. The phased retirement opportunity requires a written agreement between the employee and employer. The employer is under no obligation to approve a phased retirement.

The Act does not include the amendments to TRA which would have increased employer and employee contributions to stabilize the fund and to increase benefits by increasing the statutory multiplier.

The Act amends the St. Paul Teachers Retirement Fund Association postretirement adjustments by replacing the current 2% automatic postretirement adjustment with a federal bureau of labor statistics CPI based adjustment, capped at 5% per year.

CHAPTER 174 (H.F. No. 1376) – HEALTH AND HUMAN SERVICES MANDATES

This Act provides that at the beginning of each school year, a school district or charter school shall provide information to each student on the availability of health care coverage through the Minnesota Health Care Program. The Act eliminates the requirement that the district provide a child who is eligible for free and reduced price lunch with information on how to obtain both an application for the Minnesota Health

Care Programs and application assistance. The Act also eliminates the requirement that each district designate an enrollment specialist to provide application assistance and follow up services for families who have indicated an interest in receiving information or an application for the Minnesota Health Care Program. The Act does provide that a school district or charter school shall ensure that applications and information on application assistance are available at early childhood education sites and public schools located within the district's jurisdiction. If a school district or charter school maintains a district Website, the school district or charter school shall provide on its Website a link to information on how to obtain an application and application assistance. This provision is effective August 1, 2009.

The Act provides that when a juvenile who has been adjudicated as delinquent is enrolled in school, the juvenile's probation officer shall ensure that either a mailed notice or an electronic copy of the court's disposition order is transmitted to the superintendent of the juvenile's school district or the chief administrative officer of the juvenile's school. This provision is effective August 1, 2009.

The Act amends the law allowing political subdivisions to provide health insurance and specifies that notwithstanding any law to the contrary, a political subdivision may provide health benefits to its employees, dependents, and any class or classes of officers, employees or dependents through negotiated contributions to self-funded multiemployer health and welfare funds. This section was effective May 23, 2009, and applies to contributions made on or after that date, and is intended as a clarification of existing law.

CHAPTER 179 (H.F. No. 2323) – FINAL OMNIBUS TAX - VETOED