

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1475

Docket No. 05.0009.0650

DATE RECEIVED 4/22/88

ADOPTED W/O HEARING X

REVIEW DATE 5/1/88

EMERGENCY RULE _____

DUE DATE 5/6/88

REVISOR APPROVED ✓

APPROVED 5/6

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

(*) 3/30/87 Date published in State Register

_____ Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed rule

✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule

179A.04 (3)(f) Statutory Authority

no Small Business Statement

no Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

no Small Business Statement

no Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

~~4/21/88~~ 11/20/87 Date 30/25 days before adoption

yes Notice attached

no Copy of rule or summary attached

p/c w/ yes attached at least described in title recites it was attached

✓ Publication in State Register

12/7/87 Date 30/25 days before adoption

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of FAct, Conclusions & Order Adopting

4/21/88 Date

✓ Written requests, submissions or comments (17)

✓ Declaration of attorney

Andrea Kircher Name of SAAG representing agency

✓ Notice of Submission to Attorney General (if applicable)

CBE ✓ Affidavit of Mailing Notice to Attorney General (if applicable)

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : May 9, 1988

TO : Paul Goldberg, Commissioner
Bureau of Mediation Services

FROM : CHRISTIE B. ELLER
Assistant Attorney General

PHONE : 6-9421

SUBJECT : In the Matter of the Adopted Rule Relating to Public Employees; Exclusive Representatives; Right to Strike.

The above-referenced rule has been approved as to its legality by the Attorney General on May 6, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must establish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CBE:nah
Enclosures

cc: Maryanne Hruby
Duane Harves

Bureau of Mediation Services

Adopted Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

Rules as Adopted

5510.2310 CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change or transfer of exclusive representative.** When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.

A. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known to the new exclusive representative.

B. Except in the case of a transfer, the employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied. Where a new exclusive representative has been certified as the result of a transfer, the employer shall continue previous payroll deductions of dues and fair share fees and transmit such deductions to the person or place designated by the new exclusive representative.

Subp. 2. [Unchanged.]

Approved by Revisor JCF

Subp. 3. [See Repealer.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Request for arbitration at impasse.** A joint request by the parties to submit the impasse to arbitration may be served at any time during the negotiations, mediation period, or thereafter. A joint request must be signed by the authorized representatives of both parties and must contain a list of the items in dispute and a statement agreeing to arbitrate the items.

A request by a single party to submit an impasse to arbitration may be served at any time after the expiration of the mediation period. The request must be in writing, signed by an authorized representative, and contain a list of the items in dispute.

A request to arbitrate is accepted by the other party only upon receipt by the bureau and the offering party of a written acceptance. A joint request satisfies this requirement.

A joint request or written acceptance of a request to arbitrate is binding upon the parties except to the extent they otherwise mutually agree in writing.

A single-party offer to arbitrate an impasse is rejected:

A. by serving written notice of rejection on the bureau and the other party;

B. by failing to accept the offer in writing within 15 calendar days following service of the request;

C. if the exclusive representative serves a notice of intent to strike following receipt by the bureau of an offer to arbitrate; or

D. if the exclusive representative does not withdraw a previously served notice of intent to strike by serving a written acceptance of the offer.

An offer to arbitrate an impasse is considered to be

Approved
by Revisor _____

withdrawn if the offer is rejected by the other party in accordance with parts 5510.2410 to 5510.3210.

Subp. 4a. to 6. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to E. [Unchanged.]

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to F. [Unchanged.]

REPEALER. Minnesota Rules, part 5510.2310, subpart 3, is repealed.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

May 6 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B E Ulz
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 9 1988

Joan Anderson Growe
Secretary of State

10:20 A.M.

The proposed DRG revision listed below will be published in the ***State Register*** on March 30, 1987. The comment period runs through 4:30 p.m., 29 April, 1987. Please note that the balance of the rule provisions on Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Minnesota Rules, parts 9500.1090 to 9500.1155, are being revised under the standard rulemaking procedures of Minnesota Statutes, chapter 14.

The public comment period ends at 4:30 p.m. on April 29, 1987. Written comments should be forwarded to the following address:

Juli Ann Menssen
Director of Hospital Rates
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155

Notice of adopted changes in diagnostic categories will be published in the ***State Register***.

Rules as Adopted

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the classification of inpatient hospital services according to the diagnostic related groups (DRG's) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to N. [Unchanged.]	
O.	
Extreme Immaturity	(386)
P. Prematurity with major problems	(387)
Q. Prematurity without major problems	(388)
R. Full-term neonates or neonates died or transferred	(385,389,390)

P. to JJ. [Reletter as S. to MM.]

Subp. 21. to 50. [Unchanged.]

Bureau of Mediation Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Status of the Labor Contract when there is a Change in Exclusive Representative

Notice is hereby given that the State Bureau of Mediation Services is seeking information or opinions from sources outside the agency in preparing to propose amendment of the rule governing the status of the labor contract when there is a change in exclusive representative. The rules are authorized by Minnesota Statutes Section 179.04, subdivision 3(f).

The State Bureau of Mediation Services requests information and opinions concerning the rule as it relates to the status of the labor contract when there is a change in exclusive representative. Under provisions of the current rule, the labor agreement remains in effect and is administered by the original union until its expiration date even where that union has been replaced as a result of a representation election. The Bureau is contemplating a change in the rules to provide for termination of the existing contract upon the certification of a different exclusive representative. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Paul W. Goldberg, Director, Minnesota Bureau of Mediation Services, 205 Aurora Avenue, St. Paul, MN 55103. Oral statements will be received during regular business hours over the telephone at (612) 296-2525 and in person at the above address.

All statements of information and opinions shall be accepted until the close of business on Thursday, April 30, 1987. Any written material received by the State Bureau of Mediation Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 30 March 1987

Paul W. Goldberg, Director

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

Rules as Proposed

5510.2310 ~~STATUS OF EMPLOYEE ORGANIZATION~~ CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change ~~in~~ or transfer of exclusive representative.** ~~When there is a change in exclusive representative, the incumbent exclusive representative retains the rights and obligations established by the act and the labor contract through the contract's expiration including:~~

~~A. fair share fee assessments;~~

~~B. dues check off; and~~

~~C. time off for union officers.~~

~~The incoming exclusive representative, prior to the expiration of the labor contract, has all rights and obligations necessary to carry out its status as an exclusive representative including negotiation of the successor labor contract, and access to financial information for use in negotiations.~~ When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.

A. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known to the new exclusive representative.

B. The employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following

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the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied.

Subp. 2. [Unchanged.]

Subp. 3. [See Repealer.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Request for arbitration at impasse.** A joint request by the parties to submit the impasse to arbitration may be served at any time during the negotiations, mediation period, or thereafter. A joint request must be signed by the authorized representatives of both parties and must contain a list of the items in dispute and a statement agreeing to arbitrate the items.

A request by a single party to submit an impasse to arbitration may be served at any time after the expiration of the mediation period. ~~In the case of teacher units the parties must have been at impasse for a 45 calendar day period following the expiration of the mediation period.~~ The request must be in writing, signed by an authorized representative, and contain a list of the items in dispute.

A request to arbitrate is accepted by the other party only upon receipt by the bureau and the offering party of a written acceptance. A joint request satisfies this requirement.

A joint request or written acceptance of a request to arbitrate is binding upon the parties except to the extent they otherwise mutually agree in writing.

A single-party offer to arbitrate an impasse is rejected:

Approved
by Revisor _____

A. by serving written notice of rejection on the bureau and the other party;

B. by failing to accept the offer in writing within 15 calendar days following service of the request;

C. if the exclusive representative serves a notice of intent to strike following receipt by the bureau of an offer to arbitrate; or

D. if the exclusive representative does not withdraw a previously served notice of intent to strike by serving a written acceptance of the offer.

An offer to arbitrate an impasse is considered to be withdrawn if the offer is rejected by the other party in accordance with parts 5510.2410 to 5510.3210.

Subp. 4a. to 6. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to E. [Unchanged.]

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to F. [Unchanged.]

Approved by Revisor _____

REPEALER. Minnesota Rules, part 5510.2310, subpart 3, is repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

AGENCY: Bureau of Mediation Services

MINNESOTA RULES: Chapter 5510

APPROVED AS TO FORM AND LEGALITY
19
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
ASSISTANT ATTORNEY GENERAL

The attached rules are approved for publication in the State Register

John C. Fuller
Assistant Deputy Revisor

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

Rules as Proposed

5510.2310 ~~STATUS OF EMPLOYEE ORGANIZATION~~ CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change in** or transfer of **exclusive representative.** ~~When there is a change in exclusive representative, the incumbent exclusive representative retains the rights and obligations established by the act and the labor contract through the contract's expiration including:~~

~~A. fair share fee assessments;~~

~~B. dues check off; and~~

~~C. time off for union officers.~~

~~The incoming exclusive representative, prior to the expiration of the labor contract, has all rights and obligations necessary to carry out its status as an exclusive representative including negotiation of the successor labor contract, and access to financial information for use in negotiations.~~ When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.

A. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known to the new exclusive representative.

B. The employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following

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the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied.

Subp. 2. [Unchanged.]

Subp. 3. [See Repealer.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Request for arbitration at impasse.** A joint request by the parties to submit the impasse to arbitration may be served at any time during the negotiations, mediation period, or thereafter. A joint request must be signed by the authorized representatives of both parties and must contain a list of the items in dispute and a statement agreeing to arbitrate the items.

A request by a single party to submit an impasse to arbitration may be served at any time after the expiration of the mediation period. ~~In the case of teacher units the parties must have been at impasse for a 45 calendar day period following the expiration of the mediation period.~~ The request must be in writing, signed by an authorized representative, and contain a list of the items in dispute.

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Approved by Revisor _____

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B. by failing to accept the offer in writing within 15 calendar days following service of the request;

C. if the exclusive representative serves a notice of intent to strike following receipt by the bureau of an offer to arbitrate; or

D. if the exclusive representative does not withdraw a previously served notice of intent to strike by serving a written acceptance of the offer.

An offer to arbitrate an impasse is considered to be withdrawn if the offer is rejected by the other party in accordance with parts 5510.2410 to 5510.3210.

Subp. 4a. to 6. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to E. [Unchanged.]

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to F. [Unchanged.]

Approved by Revisor _____

REPEALER. Minnesota Rules, part 5510.2310, subpart 3, is repealed.

Approved
by Revisor _____

BUREAU OF MEDIATION SERVICES

Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike; Repeal of Transmittal of Labor Contract Obligation

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner, Bureau of Mediation Services, proposes to amend the above-entitled rules without a public hearing. The Commissioner has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed rules and shall have 30 days to do so. Each comment should identify the portion of the proposed rules being addressed, the reason the comment is being made, and any changes in the proposed rules which are being suggested. The proposed rules may be modified if the modifications are supported by the data and comments received by the Bureau and do not result in substantial change in the intent and purpose of the proposed rules.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address and are encouraged to identify the portion of the proposed rules addressed by their request, the reason for the request, and any changes in the proposed rules which are being suggested. In the event a public hearing is required, the Bureau will proceed pursuant to Minnesota Statutes, sections 14.14-14.20.

Comments or written requests for a public hearing on these proposed rules should be submitted to:

Paul W. Goldberg, Commissioner
Minnesota Bureau of Mediation Services
1380 Energy Lane, Suite Two
St. Paul, MN 55108
(612) 649-5429

Authority to adopt these rules is contained in Minnesota Statutes, section 179A.04, subdivision 3(f). A Statement of Need and Reasonableness that describes the need for the and the reasonableness of the proposed rules and the information relied upon to support the amendment has been prepared and is available upon request from the Bureau at the above address or telephone number.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final Rules as Adopted, should submit a written request to the address provided above.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Bureau at the above address or telephone number.

December 7, 1987

Paul W. Goldberg, Commissioner
Bureau of Mediation Services

Statement of Need and Reasonableness
Proposed Amendments to 5510.2310

Under the provisions of the existing rule, a union which is defeated and replaced by a rival organization continues to act as exclusive representative until the expiration of any existing collective bargaining agreement. This includes the right to collect dues and fair share fee assessments, as well as the obligation to process grievances on behalf of employees covered by such collective bargaining agreement.

The "contract bar" provisions of part 5510.0510 and part 5510.0300, subpart 15, notwithstanding, this means that employees may face continued dues or fair share fee payments to an employee organization which no longer has the support of a majority of the employees for periods ranging from two to seven months. Likewise, the current rule presumes that employees who have rejected an exclusive representative in favor of another will receive full and fair representation from the defeated organization during this same two to seven month period. A practical view of the situation indicates that these outcomes or presumptions are non consistent with good public policy in this area.

Because comments on this subject area reveal a concern (primarily on the part of employers) over the effect of terminating an existing agreement prior to the scheduled expiration, as is the private sector practice in these circumstances, the proposed rule provides stability of terms and conditions by transferring rights and obligations of the existing contract to the new exclusive representative. This transfer also includes the right and obligation to process grievances, thus resolving the interim representation concern as well.

Lastly, the proposed rule provides a reasonable basis and means for terminating dues and fair share fee rights of the incumbent exclusive representative and establishing such rights for the new exclusive representative.

Statement of Need and Reasonableness
Proposed Amendments to 5510.2910

Subp. 4. Minn. Stat. § 179A.16 no longer contains any reference to the 45-day impasse period for teachers. Therefore, the rule is no longer necessary.

Subp. 7 and 8. The current rule creates confusion and uncertainty for the parties. There is a potential for illegal strikes resulting from incorrect calculations of time under the current subparts 7 and 8. The proposed rule substitutes a procedure for computing time which is described in the rule and computed by the Bureau of Mediation Services. The burden of performing the calculation is thus shifted from the individual exclusive representative to the agency. This procedure is more likely to be accurate and is less burdensome for the parties. It also reflects the actual current practice.

In the Matter of the Proposed Adoption of Rules of the State Bureau of Mediation Services Governing Public Employees; Exclusive Representatives; Right to Strike

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Carol S. Cox being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Bureau of Mediation Services rulemaking mailing list is accurate, complete, and current as of this 20th day of November, 1987.

That on the 20th day of November, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Carol S. Cox
Name

Administrative Secy.
Title

Subscribed and sworn to before me this 20th day of November 1987.

Kenneth L. Boxell

KENNETH L. BOXELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires April 19, 1991

~~not responded to the original payment notice. Payment of the original amount due plus a fine of 15 percent of the amount due or $500, whichever is greater, must be made within 30 days of notice of penalty by the fund director or good cause must be shown, or a request for hearing must be filed with the division.~~

~~If the insurer penalized does not make payment within six months of the original payment notice, the fund director will refer the file to the department of commerce for consideration of license or permit revocation.~~

Subpart 1. **Due date.** For workers' compensation benefits paid from January 1 through June 30, the due date of the completed assessment form and corresponding assessment amount is August 15 of the same calendar year.

For workers' compensation benefits paid from July 1 through December 31, the due date of the corresponding assessment amount is March 1 of the following calendar year.

Notice of the assessment rate and instructions for payment will be issued by the fund 45 or more days before the due date.

Subp. 2. **Basis.** A penalty will be assessed under Minnesota Statutes, section 176.129, subdivision 10, where either:

A. the completed assessment form and payment of the special compensation fund assessment; or

B. written certification that the assessment report and assessment payment will not be made by the due date because of reasons beyond the control of the insurer, is not received by the special compensation fund on or before the due date.

Subp. 3. **Amount.** Within 30 days of the due date, the special compensation fund will give notice of penalty to those who have neither filed the completed assessment form and paid the assessment amount, nor submitted a certified reason for nonpayment by the due date as follows:

A. Either:

(1) 2.5 percent of the assessment amount due if the assessment payment is received at the fund within five days after the due date; or

(2) five percent of the assessment amount due if the assessment payment is received at the fund within six to 30 days after the due date; or

(3) ten percent of the assessment amount due if the assessment payment is received at the fund within 31 to 60 days after the due date; or

(4) 15 percent of the assessment amount due if the assessment payment is received at the fund 61 or more days after the due date; or

B. $500, whichever is greater.

Subp. 4. **Payable to.** Both the assessment amount and any penalty due under this part are payable to the special compensation fund.

Subp. 5. **Continued nonpayment.** If the insurer penalized does not make payment within six months of the due date, the fund director shall refer the file to the Department of Commerce for consideration of license or permit revocation.

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner, Bureau of Mediation Services, proposes to amend the above-entitled rules without a public hearing. The Commissioner has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, Sections 14.22-14.28.

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed rules and shall have 30 days to do so. Each comment should identify the portion of the proposed rules being addressed, the reason the comment is being made, and any changes in the proposed rules which are being suggested. The proposed rules may be modified if the modifications are supported by the data and comments received by the Bureau and do not result in substantial change in the intent and purpose of the proposed rules.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address and are encouraged to

identify the portion of the proposed rules addressed by their request, the reason for the request, and any changes in the proposed rules which are being suggested. In the event a public hearing is required, the Bureau will proceed pursuant to *Minnesota Statutes*, sections 14.14-14.20.

Comments or written requests for a public hearing on these proposed rules should be submitted to:

Paul W. Goldberg, Commissioner
Minnesota Bureau of Mediation Services
1380 Energy Lane, Suite Two
St. Paul, MN 55108
(612) 649-5429

Authority to adopt these rules is contained in *Minnesota Statutes*, section 179A.04, subdivision 3(f). A Statement of Need and Reasonableness that describes the need for the and the reasonableness of the proposed rules and the information relied upon to support the amendment has been prepared and is available upon request from the Bureau at the above address or telephone number.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final Rules as Adopted, should submit a written request to the address provided above.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Bureau at the above address or telephone number.

Dated: 7 December 1987

Paul W. Goldberg, Commissioner
Bureau of Mediation Services

Rules as Proposed

5510.2310 ~~STATUS OF EMPLOYEE ORGANIZATION~~ CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change ~~in~~ or transfer of exclusive representative.** ~~When there is a change in exclusive representative, the incumbent exclusive representative retains the rights and obligations established by the act and the labor contract through the contract's expiration including:~~

~~A. fair share fee assessments;~~

~~B. dues check-off; and~~

~~C. time off for union officers.~~

~~The incoming exclusive representative, prior to the expiration of the labor contract, has all rights and obligations necessary to carry out its status as an exclusive representative including negotiation of the successor labor contract, and access to financial information for use in negotiations.~~ When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.

A. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known to the new exclusive representative.

B. The employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 2. [Unchanged.]

Subp. 3. [See Repealer.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Request for arbitration at impasse.** A joint request by the parties to submit the impasse to arbitration may be served at any time during the negotiations, mediation period, or thereafter. A joint request must be signed by the authorized representatives of both parties and must contain a list of the items in dispute and a statement agreeing to arbitrate the items.

A request by a single party to submit an impasse to arbitration may be served at any time after the expiration of the mediation period. ~~In the case of teacher units the parties must have been at impasse for a 45-calendar-day period following the expiration of the mediation period.~~ The request must be in writing, signed by an authorized representative, and contain a list of the items in dispute.

A request to arbitrate is accepted by the other party only upon receipt by the bureau and the offering party of a written acceptance. A joint request satisfies this requirement.

A joint request or written acceptance of a request to arbitrate is binding upon the parties except to the extent they otherwise mutually agree in writing.

A single-party offer to arbitrate an impasse is rejected:

A. by serving written notice of rejection on the bureau and the other party;

B. by failing to accept the offer in writing within 15 calendar days following service of the request;

C. if the exclusive representative serves a notice of intent to strike following receipt by the bureau of an offer to arbitrate; or

D. if the exclusive representative does not withdraw a previously served notice of intent to strike by serving a written acceptance of the offer.

An offer to arbitrate an impasse is considered to be withdrawn if the offer is rejected by the other party in accordance with parts 5510.2410 to 5510.3210.

Subp. 4a. to 6. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to E. [Unchanged.]

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to F. [Unchanged.]

REPEALER. *Minnesota Rules*, part 5510.2310, subpart 3, is repealed.

Bureau of Mediation Services

Proposed Permanent Rules Relating to Repeal of Transmittal of Labor Contract Obligation

Notice of Intent to Adopt Rules Without a Public Hearing

STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption of Rules of the State Bureau of Mediation Services Governing Public Employees; Exclusive Representatives; Right to Strike	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on December 7, 1987, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1a and 14.22 on November 20, 1987. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the the agency.

Based on the comments and evidence in the record before the agency, I find the following:

1. The proposed rule as published on December 7, 1987, consolidated the status of an exclusive representative certified as the result of transfer into a single subpart covering all changes in exclusive representative. The rule as adopted clarified the status of payroll deduction rights for transfers, as distinguished from other changes in exclusive representative status.

2. "Transfer" of exclusive representative status refers to a change in the nature or affiliation of an exclusive representation, as opposed to an actual change in organization. The term applies to cases where an existing exclusive representative affiliates or disaffiliates with a state or national organization, without a change in its composition or nature at the employment level.

3. Since transfers require a majority vote of the members of the exclusive representative and do not result in an actual change in organization, it is unreasonable and unnecessary to require new payroll authorization cards as is the case when a new organization replaces the former exclusive representative. The adopted rule makes this distinction clear.

4. The adopted rule continues present practice while clarifying rights and responsibilities in a more precise and logical construct.

5. The adopted rule is not a substantial change from the rule as proposed because:

   a) The classes of persons who might be expected to comment on the proposed rule would be employers, exclusive representatives, and affected public employees. No new class of persons are affected by the adopted rule.

   b) The subject matter covered by the proposed and adopted rules is the same: Status and rights of employers, employees and exclusive representatives in the event of a change in exclusive representative status.

   c) The changes made in the rule as adopted merely clarify policies and avoid unintended results. The proposed rule was adequately noticed and invited comments (see December 2, 1987, letter from Tom Hennessy, Director, AFSCME, Council No. 14, AFL-CIO) as to its technical aspects. No person or class of persons affected by the rules is disadvantaged by the change in the adopted rule.

6. The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Minnesota Rules: Parts 5510.2310 and 5510.2910, as modified, are adopted this 21 day of April, 1988, pursuant to authority vested in me by Minnesota Statutes section 179A.04, Subd. 3(f) (1984).

Name Paul W. Goldberg

Title Commissioner

STATE OF MINNESOTA
BUREAU OF MEDIATION SERVICES
205 AURORA AVENUE
SAINT PAUL 55103
PHONE 612-296-2525

TO: Selected Practitioners

FROM: Paul W. Goldberg, Commissioner
Bureau of Mediation Services

PHONE: 296-2525

DATE: August 14, 1987

RE: Proposed BMS Rule Change

Several months ago, we solicited comment and opinion concerning possible revision of Minnesota Rules Part 5510.2310 as it relates to the status of a contract where an exclusive representative is defeated and replaced in a challenge election. Only one comment was received.

Because we believe this matter is of a substantive nature, I would appreciate your personal review and reaction on this matter before I proceed to initiate the rule making process in this regard.

As you can see from the enclosed copy of the present rule, when an existing exclusive representative is "booted out" in favor of a new organization, the contract between the old union and employer remains in effect until its normal expiration date. Although the new union which won the election has the right to commence negotiations, the defeated union continues to received dues and fair share fees, etc., and--most significantly--grievance activity is handled by the defeated union rather than the new union until the contract expires.

It is my belief that this system raises serious questions regarding how well the rights of employees are protected in the interval between certification of a new rep and normal expiration of the existing agreement. Depending upon how quickly the challenge election is processed, this interval could exceed six months in the case of state employees, four months for teachers and two months for other public employees. It seems doubtful that a defeated union will be energetic and vigorous in administering the contract; activists who supported the new union would seem to be vulnerable under a system which requires the defeated union to handle their grievances; and it's somewhat unclear as to what happens to a grievance in the arbitration track under the old union administration, but not heard by contract expiration.

The roots of the present rule appear to lie in the 1980 reorganization of state employee units and the rule seems to be intended to protect employees from unilateral employer action. Since, however, the employees continue to be represented by a union--and unilateral employer action to modify terms and conditions existing at the time the new rep was certified would constitute an unfair labor practice--the need for this Bureau provided "protection" is dubious, especially in light of its potential to increase the vulnerability of employees in the grievance arena (and its inhibiting impact on the new union's ability to promptly stabilize its base).

It would seem more rational for the Bureau to adopt the NLRB approach of considering the existing contract as terminated as of certification of a new exclusive rep, with the status quo preserved by virtue of unfair labor practice restraints on unilateral action.

As is usually the case in this business, I suspect there may be angles and dimensions to this matter which have not been considered in our present attitude on this matter. Thus, this letter and solicitation.

I would appreciate your review and comment on this issue not later than August 28th.

PWG:csc

Enclosures

The proposed DRG revision listed below will be published in the ***State Register*** on March 30, 1987. The comment period runs through 4:30 p.m., 29 April, 1987. Please note that the balance of the rule provisions on Inpatient Hospital Reimbursement under Medical Assistance and General Assistance Medical Care, Minnesota Rules, parts 9500.1090 to 9500.1155, are being revised under the standard rulemaking procedures of Minnesota Statutes, chapter 14.

The public comment period ends at 4:30 p.m. on April 29, 1987. Written comments should be forwarded to the following address:

Juli Ann Menssen
Director of Hospital Rates
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155

Notice of adopted changes in diagnostic categories will be published in the ***State Register***.

Rules as Adopted

9500.1100 DEFINITIONS.

Subpart 1. to 19. [Unchanged.]

Subp. 20. **Diagnostic categories.** "Diagnostic categories" means the classification of inpatient hospital services according to the diagnostic related groups (DRG's) under medicare with adjustments as follows:

Diagnostic Categories	DRG Numbers Within the Diagnostic Category
A. to N. [Unchanged.]	
O.	
Extreme Immaturity	(386)
P. Prematurity with major problems	(387)
Q. Prematurity without major problems	(388)
R. Full-term neonates or neonates died or transferred	(385,389,390)
P. to JJ. [Reletter as S. to MM.]	

Subp. 21. to 50. [Unchanged.]

Bureau of Mediation Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Status of the Labor Contract when there is a Change in Exclusive Representative

Notice is hereby given that the State Bureau of Mediation Services is seeking information or opinions from sources outside the agency in preparing to propose amendment of the rule governing the status of the labor contract when there is a change in exclusive representative. The rules are authorized by Minnesota Statutes Section 179.04, subdivision 3(f).

The State Bureau of Mediation Services requests information and opinions concerning the rule as it relates to the status of the labor contract when there is a change in exclusive representative. Under provisions of the current rule, the labor agreement remains in effect and is administered by the original union until its expiration date even where that union has been replaced as a result of a representation election. The Bureau is contemplating a change in the rules to provide for termination of the existing contract upon the certification of a different exclusive representative. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Paul W. Goldberg, Director, Minnesota Bureau of Mediation Services, 205 Aurora Avenue, St. Paul, MN 55103. Oral statements will be received during regular business hours over the telephone at (612) 296-2525 and in person at the above address.

All statements of information and opinions shall be accepted until the close of business on Thursday, April 30, 1987. Any written material received by the State Bureau of Mediation Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 30 March 1987

Paul W. Goldberg, Director

5510.2310 STATUS OF EMPLOYEE ORGANIZATION.

Subpart 1. **Change in exclusive representative.** When there is a change in exclusive representative, the incumbent exclusive representative retains the rights and obligations established by the act and the labor contract through the contract's expiration including:

A. fair share fee assessments;

B. dues check-off; and

C. time off for union officers.

The incoming exclusive representative, prior to the expiration of the labor contract, has all rights and obligations necessary to carry out its status as an exclusive representative including negotiation of the successor labor contract, and access to financial information for use in negotiations.

Subp. 2. **Decertification of exclusive representative.** When an exclusive representative is decertified, the labor contract remains in effect until its expiration. The decertified exclusive representative retains all its rights and obligations established by the act and the labor contract through the contract's expiration.

Subp. 3. **Transfer of exclusive representative status.** An exclusive representative certified as the result of a transfer of exclusive representative status assumes all its rights and obligations established by the act and the existing labor contract.

MS s 179A.04 subd 3 cl (f)

9 SR 735

AUGUST 14, 1987, MEMO REGARDING RULE ON STATUS OF LABOR CONTRACT WHEN THERE IS A CHANGE IN EXCLUSIVE REPRESENTATIVE WAS SENT TO THE FOLLOWING PERSONS:

John Sylvester
Minnesota School Boards Assn.
P. O. Box 119
St. peter, MN 56082

Joe Flynn, Attorney at Law
345 Cedar Building
Suite 800
St. Paul, MN 55101

Bob Astrup
Minnesota Education Association
41 Sherburne Avenue
St. Paul, MN 55103

Bob Tonra
Minnesota Education Association
41 Sherburne Avenue
St. Paul, MN 55103

Ed Bolstad
Minnesota Federation of Teachers
168 Aurora Avenue
St. Paul, MN 55103

Gregg Corwin, Attorney at Law
548 West Parkdale Plaza Building
1660 South Highway 100
St. Louis Park, MN 55416

Eliot Seide
AFSCME
265 Lafayette, Room B
St. Paul, MN 55107

Tom Hennessy, Executive Director
AFSCME, Council No. 14
267 Lafayette Road South
St. Paul, MN 55107

John Giorgi
AFSCME, Council 65
1716 East 5th Avenue
Hibbing, MN 55746

Tony Orman
AFSCME 96
211 West 2nd Street
Duluth, MN 55802

Betty Bednarczyk
SEIU, Local 113
3001 University Avenue S.E.
Minneapolis, MN 55414

Holly Rodin, Field Representative
Service Employees International
Joint Council Number 7
3001 University Avenue S..E
Suite 507
Minneapolis, MN 55414

Bob Schrank
Minnesota School Employees Association
Metro Square Building
121 East 7th Street, #290
St. Paul, MN 55101

Nancy Crippen
Minnesota School Employees Association
Metro Square Building
121 East 7th Street, #290
St. Paul, MN 55101

Don Bye, Attorney at Law
700 Providence Building
Duluth, MN 55802

Darrell Jones
IRC
2001 London Road
Duluth, MN 55812

Frank Madden, Attorney at Law
204 East Parkdale Plaza
1660 South Highway 100
Minneapolis, MN 55416-3489

Cy Smythe
7501 Golden Valley Road
Second Floor
Golden Valley, MN 55427

Karen Olson
7501 Golden Valley Road
Second Floor
St. Paul, MN 55427

Bernie Steffen, Attorney at Law
403 Jackson Street
Suite 301
Anoka, MN 55303

Paul Hetland, Attorney at Law
345 Cedar Building
Suite 800
St. Paul, MN 55101

Jim Knutson, Attorney at Law
345 Cedar Building
345 Cedar Building
Suite 800
St. Paul, MN 55101

Oscar Sorlie
Law Office Building
110 North Mill Street
Fergus Falls, MN 56537

Ray Ondov, Attorney at Law
105 East Oakland Avenue
Austin, MN 55912

Dave Morris
Teamsters 320
3001 University Avenue S.E.
Minneapolis, MN 55414

Gary Bastian, Attorney at Law
Teamsters, Local No. 320
3001 University Avenue S.E.
Minneapolis, MN 55414

Tom Fitzpatrick, Attorney at Law
502 Laurel Street
P. O. Box 631
Brainerd, MN 56401

David Dombrowski
Metropolitan Airports Commission
6040 - 28th Avenue South
Minneapolis, MN 55450

Steve Fecker, Attorney at Law
P. O. Box 20
Grand Rapids, MN 55744

Morgan Pascoe, MPELRA President
State University System
230 Park Office Building
555 Park Street
St. Paul, MN 55103

Nancy Vollertson, Attorney at Law
Dunlap & Keith
505 Marquette Bank Building
P. O. Box 549
Rochester, MN 55903

Tom Vogt, Attorney at Law
Felhaber, Larson, Fenlon & Vogt
900 Conwed Tower
444 Cedar Street
St. Paul, MN 55101

In the Matter of the Adoption of Rules of the State Bureau of Mediation Services Governing Public Employees; Exclusive Representatives; Right to Strike

DECLARATION OF COUNSEL

I, Andrea Kircher, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0650.

A M Kircher

Andrea Kircher
Special Assistant
Attorney General

Dated: 4-21-88

STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption Of Rules of the State Bureau of Mediation Services Governing Public Employees; Exclusive Representatives; Right to Strike

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statues, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, 4-21, 1988, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on December 7, 1987, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rules is available upon request from the State Bureau of Mediation Services.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule or the legality of any rule. Any written comments must be submitted within eight calendar days of the date of the submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Paul W. Goldberg, Commissioner
State Bureau of Mediation Services
1380 Energy Lane, Suite Two
Saint Paul, Minnesota 55108
Telephone Number: (612) 649-5421

Name Paul W Goldberg

Title Commissioner

Dated: 4-21-88

In the Matter of the Proposed Adoption of Rules of the State Bureau of Mediation Services Governing Public Employees; Exclusive Representatives; Right to Strike

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Carol S. Cot, being sworn says:

That on the 21 day of April, 1988, in the City of Saint Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the attorney general.

Carol S. Cot
Name

Administrative Secretary
Title

Subscribed and sworn to before me this 4 day of April, 1988.

Kenneth L. Boxell

KENNETH L. BOXELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires April 19, 1991

OFFICE MEMORANDUM

DEPARTMENT: BUREAU OF MEDIATION SERVICES
STATE OF MINNESOTA

TO: Rita Desmond
Attorney General's Office

DATE: 4-21-88 PHONE: 649-5421

FROM: Paul W. Goldberg, Commissioner
Bureau of Mediation Services

SUBJECT: Rules of the Bureau of Mediation Services Governing Public Employees; Exclusive Representatives (5510.2310); Right to Strike (5510.2910)

Enclosed for your review are the following documents concerning the two above-entitled rules:

1. A copy of the notice of solicitation of outside information or opinions as published in the state register. (Applies only to 5510.2310)

2. A copy of the proposed rules with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing.

6. A copy of the notice of intent to adopt the rule without a public hearing as published in the state register.

7. Four copies of the rule as adopted.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency (applies only to 5510.2310).

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. The notice of submission of the rule to the attorney general.

12. The affidavit of mailing notice of submission of the rule to the attorney general.

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

Rules as Proposed

5510.2310 ~~STATUS OF EMPLOYEE ORGANIZATION~~ CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change in** or transfer of **exclusive representative.** ~~When there is a change in exclusive representative, the incumbent exclusive representative retains the rights and obligations established by the act and the labor contract through the contract's expiration including:~~

~~A. fair share fee assessments;~~

~~B. dues check off; and~~

~~C. time off for union officers.~~

~~The incoming exclusive representative, prior to the expiration of the labor contract, has all rights and obligations necessary to carry out its status as an exclusive representative including negotiation of the successor labor contract, and access to financial information for use in negotiations.~~ When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification by the Bureau, except as otherwise provided by this part.

A. All rights and obligations of the collective bargaining ~~agreement~~ contract transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known in writing to the new exclusive representative.

B. The employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following

Approved by Revisor JCF

by the Bureau

~~the~~ certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied.

Subp. 2. [Unchanged.]

Subp. 3. [See Repealer.]

5510.2910 ~~RENEWAL OF~~ EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Request for arbitration at impasse.** A joint request by the parties to submit the impasse to arbitration may be served at any time during the negotiations, mediation period, or thereafter. A joint request must be signed by the authorized representatives of both parties and must contain a list of the items in dispute and a statement agreeing to arbitrate the items.

A request by a single party to submit an impasse to arbitration may be served at any time after the expiration of the mediation period. ~~In the case of teacher units the parties must have been at impasse for a 45 calendar day period following the expiration of the mediation period.~~ The request must be in writing, signed by an authorized representative, and contain a list of the items in dispute.

A request to arbitrate is accepted by the other party only upon receipt by the bureau and the offering party of a written acceptance. A joint request satisfies this requirement.

A joint request or written acceptance of a request to arbitrate is binding upon the parties except to the extent they otherwise mutually agree in writing.

A single-party offer to arbitrate an impasse is rejected:

Approved by Revisor _____

A. by serving written notice of rejection on the bureau and the other party;

B. by failing to accept the offer in writing within 15 calendar days following service of the request;

C. if the exclusive representative serves a notice of intent to strike following receipt by the bureau of an offer to arbitrate; or

D. if the exclusive representative does not withdraw a previously served notice of intent to strike by serving a written acceptance of the offer.

An offer to arbitrate an impasse is considered to be withdrawn if the offer is rejected by the other party in accordance with parts 5510.2410 to 5510.3210.

Subp. 4a. to 6. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to E. [Unchanged.]

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. ~~The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210~~ The date the right to strike matures will be established by the director in conformance with this part. The notice must be served on the employer and the director by the exclusive representative.

B. to F. [Unchanged.]

Approved by Revisor _____

REPEALER. Minnesota Rules, part 5510.2310, subpart 3, is repealed.

Approved
by Revisor _____