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August 1, 2001

Honorable Jim Rhodes
Minnesota House of Representatives
409 State Office Building
Saint Paul, Minnesota 55155

Honorable Jim Vickerman
Minnesota Senate
226 State Capitol
Saint Paul, Minnesota 55155

Honorable Philip Krinkie
Minnesota House of Representatives
365 State Office Building
Saint Paul, Minnesota 55155

Honorable Richard Cohen
Minnesota Senate
317 State Capitol
Saint Paul, Minnesota 55155

Gentlemen:

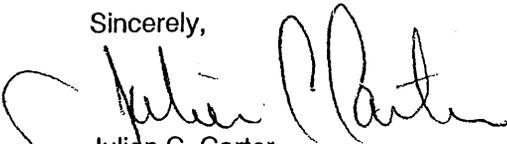
I respectfully submit to you the Department of Employee Relations (DOER) report on agency rules as required by Minnesota Statute 14.3691. The total cost for the production of this report \$1,762.00.

DOER rules are contained in Minnesota Rules, Chapter 3900 – 3920. Chapter 3900 deals with state employment and personnel issues. Chapter 3905 states the requirements for affirmative action and state agency compliance. Lastly, chapter 3920 states the requirement and compliance for the Local Government pay Equity Act.

Although DOER is not recommending the repeal of the any of the Department's rules at this time, we will be continuing to review the rules as Department initiatives move forward. The attachment explains the rules and our rationale for not recommending any changes.

Please let us know if you would like additional information or would like to meet to discuss the report.

Sincerely,


Julien C. Carter
Commissioner

Cc: Governor Jesse Ventura
Representative Mike Jaros
Representative Bill Hilty
Senator Dan Stevens
Senator Dave Knutson
Laura Offerdahl, Governor's Office
Minnesota Revisor of Statutes

— 2000 Minn. Laws Chap. 469 —
Sec. 4 Subd. 1 —
— Minn. Stat. 14.3691 Subd. 1 —

Chapter 3900: Personnel Rules

Minnesota Rules, Chapter 3900 supplements and clarifies the provisions of Minnesota Statutes, Chapter 43A that deal with the personnel management system. It clarifies the application of the statute and the method by which the commissioner of employee relations implements the statute and administers the personnel management system. It also clarifies the relationships between the statutes, rules, collective bargaining unit agreements, other employment plans, and administrative procedures. Lastly, it states the commissioner of employee relations has the responsibility for implementing all of these rules. Application of these rules is limited to employees and positions in the civil service of the executive branch, Office of the Legislative Auditor, the Minnesota State Retirement System, and the Teachers Retirement Association.

Rules 3900.1100-1300 address the classification system, position records maintenance and further implementation of unclassified status. Statute provides for these two types of service designation, which have both similar and distinct conditions of employment. The rules should be maintained to support continuation of a uniform information management system and uniform treatment for certain unclassified appointments.

Rules 3900.2100-2200 regulates how salaries are determined for new and returning employees and set the standards of reimbursing relocation costs for new employees, so that a consistent, statewide standard is applied.

Rules 3900.3100-9100 regulate recruitment, examination, certification, selection, and appointment practices. They are important to retain because they address the implementation of employment practices that represent the state's commitment to merit principles and nondiscrimination. These concepts include open access and recruitment, equal opportunity, and job related selection standards. These rules prescribe steps and guidelines to ensure uniformity for the state's appointing authorities and adherence to these merit principles.

Rule 3900.9500 determines the process for handling a complaint regarding a civil service employee subject to the code of ethics to ensure that the complaint is given timely and sufficient attention.

These rules regulate employment practices applicable to the workforce of state agencies and are necessary to retain in order to continue to support the merit system and to provide uniformity in the state's employment practices. This system allows individual appointing authorities to implement employment practices that support this common standard. For these reasons, the Department is not recommending any changes to these rules and recommends that the rules remain in effect as currently written.

Chapter 3905: Affirmative Action Rules

Minnesota Rules, Chapter 3905 serves as a supplement to clarify Minnesota Statute 43A as to its application to employees in the executive branch and those employees in civil service positions in the office of the legislative auditor, the Minnesota State Retirement System, and the Teachers Retirement Association. The rules provide definitions for general terms as well as key terms, such as affirmative action, affirmative action plan, under-utilization, and timetable. The rules explain the job announcement, application and examination process, as well as the selection and certification process and the various types of appointments in state service.

The current rules are necessary to continue the operation of the state government personnel system in an inclusive manner. They have a direct impact the recruitment, selection, hiring and retention of executive branch employees, as well as those civil service employees mentioned above. These rules help to ensure a diverse workforce by maintaining a fair hiring and employment system. For these reasons, the Department is not recommending any changes to the rules at this time.

Chapter 3920: Local Government Pay Equity Rule

Minnesota Rules, Chapter 3920 provides the specific criteria and establishes four basic compliance tests for local governments covered by the Local Government Pay Equity Act Minnesota Statute 471.991 - .999. The statute was passed in 1984 and the rule promulgated in 1992. There are approximately 1500 local governments that must comply. The rule establishes a 3-year staggered reporting cycle meaning that DOER reviews reports and makes compliance determinations for approximately one third of the local governments each year. The most important elements in the rule are: describing required content for Pay Equity Implementation Reports; the establishment of four tests for compliance and the criteria for each; and outlining specific procedures for jurisdictions not in compliance

The primary reason that the rule should remain in effect is because the law monitors wages and wages continually change. The purpose of the law, "to eliminate sex-based wage disparities in public employment in this state" is an ongoing mission. The compliance data demonstrate that without the rule and ongoing review, compliance could easily erode and sex-based wage disparities would re-appear. Even with on-going monitoring approximately 30% of jurisdictions reporting in any given year do not maintain compliance.

Using the criteria in the rule, jurisdictions not in compliance are given a grace period to correct problems and restore compliance. With the rule in place, local governments have a clear compliance standard and specific procedures to follow. Using the criteria in the rule, DOER has developed user-friendly software to assist local governments in meeting compliance requirements. As a result, in the months between a jurisdiction being notified of non-compliance and DOER's annual report to the legislature, the percentage of jurisdictions remaining out of compliance will have been reduced to about 5%.

Additional reasons to maintain the rule include:

- Without the rule's clear standard and state-level assistance, many local governments and unions would find themselves embroiled in costly, time-consuming pay disputes.
- The pay equity report submitted by jurisdictions provides a very clear snapshot of wages and positions in units of local governments. The report is public data is a very useful tool for elected officials, employees and the general public.

At this time DOER is not recommending any changes to the rule and recommends that the rule remain in effect as currently written. However, legislation was passed in the 2001 session requiring DOER to study the "practices and procedures" associated with the Local Government Pay Equity Act and to report to the legislature in January of 2002. To accomplish this task, DOER will be working with the Pay Equity Advisory Committee established when the rule was first written. If the pay equity work group determines that any changes are needed, they will be outlined in DOER's report to the legislature in January of 2002.