

county board may purchase or condemn land for holding such fairs and exhibitions thereon and appropriate money in payment therefor in excess of the sum of \$5,000 when authorized so to do by a vote of the people; accept and receive a donation or donations to be used to obtain lands for the purpose of holding thereon agricultural fairs and exhibitions and in such case and for such purpose, without being authorized by a vote of the people, to purchase or condemn lands not exceeding in value the amount of such donation or donations; improve and erect structures thereon, for which purpose they may receive donations of money, materials or labor; and lease such land from time to time to agricultural and other societies of similar nature and establish reasonable rules and regulations under which such land may be used by all such societies in the county; provided, that all structures and improvements made on such land by societies using the same shall belong to the county.

(All proceedings for the condemnation of such lands shall be had under the provisions of chapter 117.)

Notwithstanding section 375.18, upon majority vote of the Dakota county board, the Dakota county board may spend up to but not to exceed \$240,000 for the purposes of payment for property needed for expansion of the Dakota county fairgrounds. This provision expires January 1, 1978.

Sec. 16. **REPEALER.** Minnesota Statutes 1976, Section 116A.24, Subdivision 4, is repealed.

Sec. 17. This act is effective on the day following its final enactment.

Approved June 2, 1977.

CHAPTER 443—S.F.No.1172

An act relating to administrative procedures of governmental agencies; adding metropolitan and capitol area agencies under the coverage of the administrative procedure act; limiting rule-making authority and obligations; permitting incorporation by reference; requiring completion of hearing examiner reports within a specified period; providing a procedure for adopting temporary rules; permitting an agency to appeal adverse district court decisions; providing copies of the state register for public libraries; providing for subpoenas and reporters; amending Minnesota Statutes 1976, Sections 15.0411, Subdivision 2; 15.0412; 15.0413, Subdivision 3; 15.0417; 15.0426; 15.048; 15.051, Subdivision 4; 15.052, Subdivisions 4 and 5; and 15.42.

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

Section 1. Minnesota Statutes 1976, Section 15.0411, Subdivision 2, is amended to read:

Subd. 2. **ADMINISTRATIVE PROCEDURES FOR GOVERNMENTAL**
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AGENCIES. "Agency" means any state officer, board, commission, bureau, division, department, or tribunal, other than a court, having a statewide jurisdiction and authorized by law to make rules or to adjudicate contested cases. "Agency" also means the capitol area architectural and planning board. Sections 15.0411 to 15.052 do not apply to (a) agencies directly in the legislative or judicial branches, (b) emergency powers in Laws 1951, Chapter 694, Title III, Sections 301 to 307, (c) corrections board and pardon board, (d) the department of employment services, (e) the director of mediation services, (f) the workers compensation division in the department of labor and industry, (g) the workers compensation court of appeals, (h) board of pardons, or (i) the department of military affairs. Sections 15.0418 to 15.0426 do not apply to the Minnesota municipal board.

Sec. 2. Minnesota Statutes 1976, Section 15.0412, is amended to read:

15.0412 **RULES, PROCEDURES.** Subdivision 1. Each agency shall adopt, amend, suspend or repeal its rules in accordance with the procedures specified in sections 15.0411 to 15.052, and only pursuant to authority delegated by law and in full compliance with its duties and obligations. Except as provided in subdivision 3, sections 15.0411 to 15.052 shall not be authority for an agency to adopt, amend, suspend or repeal rules. No agency shall adopt a rule which duplicates language contained in Minnesota Statutes unless the hearing examiner determines that duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect.

Subd. 2. To assist interested persons dealing with it, each agency shall, in a manner prescribed by the commissioner of administration, prepare a description of its organization, stating the process whereby the public may obtain information or make submissions or requests. The commissioner of administration shall annually publish these descriptions in the state register.

Subd. 3. Each agency shall adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties. Procedures concerning only internal management which do not to the extent that those procedures directly affect the rights of or procedures available to the public need not be adopted as rules.

Subd. 4. No rule shall be adopted by any agency unless the agency first holds a public hearing thereon, affording all affected interests an opportunity to participate, and gives notice of its intention to hold such a hearing at least 30 days prior to the date set for the hearing by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the secretary of state for that purpose and in the state register. The notice in the state register shall include the full text of the rule proposed for adoption; provided that, with the approval of the chief hearing examiner, the agency may incorporate by reference provisions of federal law or rule or other materials from sources which the chief hearing examiner determines are conveniently available for viewing, copying and acquisition by interested persons. The chief hearing examiner shall not approve incorporation by reference of materials which are less than 3000 words in length or which would require less than five pages of publication in the state register. The agency shall make available at least one free copy of the proposed rule to any person requesting it. At the public hearing the agency shall make

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an affirmative presentation of facts establishing the need for and reasonableness of the rule proposed for adoption and fulfilling any relevant substantive or procedural requirements imposed on the agency by law or rule. After allowing written material to be submitted and recorded in the hearing record for 20 five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner, the hearing examiner assigned to the hearing shall proceed to write a report as provided for in section 15.052, subdivision 3, which report shall be completed as promptly as possible within 30 days after the close of the hearing record unless the chief hearing examiner, upon written request of the agency and the hearing examiner, orders an extension. In no case shall an extension be granted if the chief hearing examiner determines that an extension would prohibit a rule from being adopted or becoming effective until after a date for adoption or effectiveness as required by statute. The report shall be available to all affected persons upon request for at least ten five working days before the agency takes any final action on the rule. If the agency adopts the rule, it shall be submitted with the complete hearing record to the attorney general, who shall review the rule as to form and legality. If the agency, the chief hearing examiner or the attorney general requests, the hearing examiner shall cause a transcript to be prepared of the hearing. The agency shall give notice to all persons who requested to be informed that the hearing record has been submitted to the attorney general. The attorney general shall, within 20 days, either approve or disapprove the rule. If he approves the rule, he shall promptly file it in the office of the secretary of state. If he disapproves the rule, he shall state in writing his reasons therefor, and the rule shall not be filed in the office of the secretary, nor published. A rule shall become effective after it has been subjected to all requirements described in this subdivision and 20 five working days after its publication in the state register, as hereinafter provided, unless a later date is required by statutes or specified in the rule. Any rule adopted after July 1, 1976 which is not published in the state register shall be of no effect if the rule as adopted does not differ from the proposed rule as published in the state register, publication may be made by publishing notice in the state register that the rule has been adopted as proposed and by publishing a citation to the prior publication. If the rule as adopted differs from the proposed rule, the adopted rule or subdivisions thereof which differ from the proposed rule shall be published together with a citation to the prior state register publication of the remainder of the proposed rule.

Subd. 5. Where statutes governing the agency permit the agency to exercise emergency powers, or when the agency is compelled to act by court order or a federal law or rule, emergency rules may be established without compliance with the provisions of subdivision 4. These rules are to be When an agency is directed or authorized by statute, federal law or court order to adopt, amend, suspend or repeal a rule in a manner that does not allow for compliance with subdivision 4, the agency shall promulgate a temporary rule in accordance with this subdivision. The proposed temporary rule shall be published in the state register and for at least 20 days thereafter the agency shall afford all interested persons an opportunity to submit data and views on the proposed temporary rule in writing. The proposed temporary rule may be modified if the modifications are supported by the data and views submitted to the agency. The agency shall submit to the attorney general the proposed temporary rule as published, with any proposed modifications. The attorney general shall review the proposed temporary rule as to form and legality and shall approve or disapprove the proposed temporary rule and any

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proposed modifications within five working days. The temporary rule shall take effect upon approval of the attorney general. Failure of the attorney general to approve or disapprove within five working days shall be deemed approval. As soon as practicable notice of the attorney general's decision shall be published in the state register and the adopted rule shall be published in the manner as provided for adopted rules in subdivision 4. Temporary rules adopted under this subdivision shall be effective for not longer than 75 90 days and may be reissued or continued in effect for an additional 75 90 days, but may not immediately be reissued thereafter without following the procedure of subdivision 4. Emergency rules shall be published in the state register as soon as practicable.

Subd. 6. When an agency seeks to obtain information or opinions in preparing to propose the adoption, amendment, suspension, or repeal of a rule from sources outside of the agency, the agency shall publish notice of its action in the state register and shall afford all interested persons an opportunity to submit data or views on the subject of concern in writing or orally. Such notice and any written material received by the agency shall become a part of the hearing record to be submitted to the attorney general under subdivision 4.

Subd. 7. If the adoption of a rule by an agency will require the expenditure of public moneys by local public bodies ~~and the affected local public agency has not been directly involved as provided by statute in the actions relating to implementation of the rule, the notice of the proposed rule as required by this section shall be accompanied by a~~ written statement giving the agency's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule if the estimated total cost exceeds \$100,000 in either of the two years. For purposes of this section, local public bodies shall mean officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes.

Sec. 3. Minnesota Statutes 1976, Section 15.0413, Subdivision 3, is amended to read:

Subd. 3. Rules hereafter promulgated, amended, suspended, or repealed of any state officer, board, commission, bureau, division, department, or tribunal other than a court, having statewide jurisdiction and authorized by law to make rules, but excluded from the definition of "agency" in section 15.0411 shall have the force and effect of law if they are filed in the office of the secretary of state in the same manner as rules of ~~an agency adopted pursuant to section 15.0412~~ are so filed and if they are submitted to the commissioner of administration in a manner ~~he shall prescribe and published in the state register.~~ This subdivision, however, shall not apply to rules of the regents of the University of Minnesota.

Sec. 4. Minnesota Statutes 1976, Section 15.0417, is amended to read:

15.0417 RULE DECLARED INVALID. In proceedings under section 15.0416 the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with

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statutory rule-making procedures. Any party to proceedings under section 15.0416, including the agency, may appeal an adverse decision of the district court to the supreme court.

Sec. 5. Minnesota Statutes 1976, Section 15.0426, is amended to read:

15.0426 APPEALS TO SUPREME COURT. An aggrieved party, including an agency which issued a decision or order in the case, may secure a review of any final order or judgment of the district court under section 15.0424 or section 15.0425 by appeal to the supreme court. Such appeal shall be taken in the manner provided by law for appeals from orders or judgments of the district court in other civil cases.

Sec. 6. Minnesota Statutes 1976, Section 15.048, is amended to read:

15.048 EFFECT OF PUBLICATION OF RULES OR ORDERS. The publication or citation of a rule or order in the state register in a manner as required by sections 15.0411 to 15.052 raises a rebuttable presumption that:

- (1) The rule or order was duly adopted, issued, or promulgated;
- (2) The rule or order was duly filed with the secretary of state and available for public inspection at the day and hour endorsed thereon; and
- (3) The copy of the rule or order published in the state register is a true copy of the original.

Sec. 7. Minnesota Statutes 1976, Section 15.051, Subdivision 4, is amended to read:

Subd. 4. COST; DISTRIBUTION. When an agency properly submits a rule, proposed rule, notice, or other material to the commissioner of administration, the commissioner shall then be accountable for the publication of the same in the state register. The commissioner of administration shall require each agency which requests the publication of rules, proposed rules, notices, or other material in the state register to pay its proportionate cost of the state register unless other funds are provided and are sufficient to cover the cost of the state register.

The state register shall be offered for public sale at a location centrally located as determined by the commissioner of administration and at a price as the commissioner of administration shall determine. The commissioner of administration shall further provide for the mailing of the state register to any person, agency, or organization if so requested, provided that reasonable costs are borne by the requesting party. The supply and expense appropriation to any state agency is deemed to include funds to purchase the state register. Ten copies of each issue of the state register, however, shall be provided without cost to the legislative reference library and ten copies to the state law library. One copy shall be provided without cost to a public library in each county seat in the state or, if there is no public library in a county seat, to a public library in the county as designated by the county board. The commissioner shall advise the recipient libraries of the significance and content of the state register and shall encourage efforts to promote its

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usage.

Sec. 8. Minnesota Statutes 1976, Section 15.42, is amended to read:

15.42 **CITATION.** Sections ~~45.04~~ 15.0411 to ~~45.44~~ 15.052, may be cited as the Administrative Procedure Act.

Sec. 9. Minnesota Statutes 1976, Section 15.052, Subdivision 4, is amended to read:

Subd. 4. The chief hearing examiner shall promulgate rules to govern the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings and contested case hearings. Such procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief hearing examiner to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of section 15.0412, subdivision 4. Upon his own initiative or upon written request of an interested party, the chief hearing examiner may issue a subpoena for the attendance of a witness or the production of such books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 10. Minnesota Statutes 1976, Section 15.052, Subdivision 5, is amended to read:

Subd. 5. The office of hearing ~~examiner shall~~ examiners may maintain a court reporter system and in addition to or in lieu thereof may contract with non-governmental sources for court reporter services. The court reporters may additionally be utilized as the chief hearing examiner directs. Unless the chief hearing examiner determines that the use of an ~~audio magnetic recording device~~ a court reporter is more appropriate, a ~~court reporter an audio magnetic recording device~~ shall be used to keep a record at any hearing which takes place under this chapter and ~~may additionally be utilized as a chief hearing examiner directs.~~

Court reporters serving in the court reporter system of the office of hearing examiners shall be in the classified service and all initial appointments to the position of court reporter shall be filled by individuals who acted in this capacity for individual state agencies prior to the enactment of this section.

Sec. 11. The legislature finds that activities of metropolitan agencies have a significant impact on property rights of citizens, and that certain of these activities should perhaps be governed by the administrative procedure act. In order to study the proper degree of applicability of the administrative procedure act, the appropriate standing committees of the legislature are directed to study the issue with the metropolitan

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agencies. The committees shall report to the legislature no later than February 15, 1978, on statutory changes necessary to define the appropriate degree of applicability. The metropolitan agencies are authorized and encouraged to contract with the office of hearing examiners to provide hearing examiner and reporting services for any agency activity which would be a rule or a contested case as defined in section 15.0411, subdivision 3 or 4. The agency shall pay an assessment for these services as provided in section 15.052, subdivision 8. An election under this subdivision to use these services shall subject the agency, in respect to that activity, to procedures specified in the administrative procedure act and rules relating thereto. For purposes of this section, "metropolitan agency" shall mean the metropolitan council, the metropolitan airports commission, the metropolitan transit commission and the metropolitan waste control commission.

Sec. 12. Notwithstanding any other law to the contrary, the adoption of an emergency rule under authorization or direction of any chapter of Laws 1976 or 1977 with an effective date on or after July 1, 1977, shall be done in accordance with section 15.0412, subdivision 5, as amended by this act.

Sec. 13. Section 1 is effective July 1, 1978, and the remainder of this act is effective the day following final enactment.

Approved June 2, 1977.

CHAPTER 444—S.F.No.1349

[Coded in Part]

An act relating to the organization and operation of state government; regulating organization and procedures of various state departments and agencies; providing for the source of per diem and expense payments; providing for appointment and compensation of the employees suggestion board; removing the minimum teachers' license fee; permitting the board of teaching to adopt rules; regulating state arts board grants and publicity; providing the status of part time executive secretaries; permitting joint rule making proceedings; changing the name and composition of the state board of human rights; making miscellaneous inconsequential clarifications and corrections; amending Minnesota Statutes 1976, Sections 15.01; 15.059, Subdivision 6; 16.71, Subdivisions 1 and 1a; 121.02, Subdivision 1; 125.08; 125.185, by adding a subdivision; 139.10, by adding a subdivision; 144A.19, Subdivision 2; 144A.21, Subdivision 1; 144A.251; 214.04, Subdivision 3, and by adding a subdivision; 214.06, Subdivision 1; 238.04, Subdivision 2; 363.04, Subdivisions 4, 4a and 5; Chapter 15, by adding a section; and Laws 1976, Chapter 222, Section 207, Subdivision 2; repealing Minnesota Statutes 1976, Sections 144A.21, Subdivisions 3 and 4; 144A.25; and 214.05.

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

Section 1. Minnesota Statutes 1976, Section 15.01, is amended to read:

15.01 STATE GOVERNMENT; ORGANIZATION AND OPERATION; DEPARTMENTS OF THE STATE. The following agencies are designated as the

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