

Clearwater, Hubbard, and Wadena, and Todd. Area number two includes the counties of Itasca, Koochiching, St. Louis, Carlton, Lake and Cook. Area number three includes the counties of Traverse, Grant, Douglas, Big Stone, Stevens, Pope, Swift, Kandiyohi, Lac qui Parle, Chippewa, Yellow Medicine, Renville, McLeod, Carver, Scott, Dakota, Lincoln, Lyon, Redwood, Sibley, Le Sueur, Rice, Goodhue, Nicollet, Wabasha, Pipestone, Murray, Brown, Waseca, Steele, Dodge, Olmsted, Winona, Cottonwood, Watonwan, Blue Earth, Rock, Nobles, Jackson, Martin, Faribault, Freeborn, Mower, Fillmore and Houston. Area number four includes the counties of Cass, Aitkin, Crow Wing, Pine, Todd, Morrison, Mille Lacs, Kanabec, Stearns, Benton, Isanti, Chisago, Sherburne, Anoka, Meeker, Wright, Washington, Hennepin and Ramsey.

Sec. 2. APPLICATION OF LAW CONTINUED.

No new referendum is required in area number one as newly constituted under section 1 of this act in order to continue the application of Minnesota Statutes, Sections 30.461 to 30.479 to that area.

Sec. 3. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved March 27, 1981

CHAPTER 12 — S.F.No. 175

An act relating to accountancy; removing an expiration provision related to the board of accountancy; repealing Laws 1979, Chapter 326, Section 15.

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

Section 1. REPEALER.

Laws 1979, Chapter 326, Section 15, is repealed.

Approved March 27, 1981

CHAPTER 13 — S.F.No. 366

An act relating to taxation; providing a new schedule for payment of income taxes withheld from wages; giving temporary rulemaking authority; amending Minnesota Statutes 1980, Section 290.92, Subdivision 6.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1980, Section 290.92, Subdivision 6, is amended to read:

Subd. 6. **EMPLOYER TO FURNISH INFORMATION RETURNS, DEPOSITS.** (1) Every employer required to deduct and withhold tax under subdivision 2a or subdivision 3 shall file with the commissioner of revenue, and pay over the tax required to be withheld under subdivision 2a and subdivision 3 for each quarterly period, on or before the last day of the month following the close of each quarterly period or another reporting period as the commissioner may prescribe and make and file with the commissioner a return and pay over to him the tax required to be withheld under subdivision 2a or subdivision 3, except that, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld under subdivision 2a or subdivision 3 exceeds \$100, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with the commissioner of revenue. (1) (a) **RETURNS.** Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided herein. However, any such return may be filed on or before the tenth day of the second calendar month following such period if such return shows timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. Every employer, in preparing said quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return and paying the tax, but no extension shall be granted for more than six months.

(b) **ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.** (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$200, or beginning January 1, 1982, \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-month-

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ly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

(c) **OTHER METHODS.** The commissioner shall have the power by rule to prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which he deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year ~~or less than one month~~, provided that for employers with annual payrolls withholding tax liabilities of less than ~~\$100,000~~ \$1,200 the reporting period shall be no more frequent than quarterly.

~~Such return shall be in such form and contain such information as the commissioner may prescribe. The commissioner may grant a reasonable extension of time for making such return or deposit and paying such tax, but no such extension shall be granted for more than six months.~~

(2) If less than the correct amount of such tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as *the commissioner may prescribe*. *If such underpayment cannot be so adjusted* the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may prescribe.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed therefor, or makes and files a false or fraudulent return, the commissioner shall make for him a return from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof. The amount of tax shown thereon shall be paid to the commissioner at such times as the commissioner may prescribe. Any such return or assessment so made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(4) If the commissioner, in any case, has reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, he may immediately assess such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such tax has expired.

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(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with regulations prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.

(7) (a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state of Minnesota for such sum or sums (and any added penalties and interest); and any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or subdivision 3 shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, in violation of the provision of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which such tax may be credited are paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this shall in no case relieve the employer from liability for any penalties and interest otherwise applicable in respect of such failure to deduct and withhold.

(8) Upon the failure of any employer to pay to or deposit with the commissioner within the time provided by paragraphs (1), (2) or (3) of this subdivision any tax required to be withheld in accordance with the provisions of subdivision 2a or subdivision 3, or if the commissioner has assessed a tax pursuant to paragraph (4), such tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general to institute legal action in the name of the state to recover the amount of such tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four years and

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three months after the due date of the return or deposit required by paragraph (1), or the date the return was filed, or deposit made whichever is later; except that in the case of failure to make and file such return or if such return is false or fraudulent, or such deposit is not made such action may be brought at any time.

(9) The tax required to be withheld under subdivision 2a or subdivision 3 or paid to, or deposited with the commissioner under this subdivision, together with penalties, interest and costs, shall become a lien upon all of the real property of the employer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the offices of the county recorder of the county in which such real property is situated.

(10) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.

(11) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added thereto.

(12) When any tax is due and payable as provided in paragraph (8) the commissioner may issue his warrant to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the employer and to levy upon the rights to property of the employer within the county and to return such warrant to the commissioner and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the employer and to levy upon the rights to property of the employer within his county, except the homestead and household goods of the employer and property of the employer not liable to attachment, garnishment, or sale on any final process issued from any court under the provisions of Minnesota Statutes 1961, Section 550.37, and acts amendatory thereof, and shall sell so much thereof as is required to satisfy such taxes, interest, and penalties, together with his costs; but such sales shall, as to their manner, be governed by the laws applicable to sales of like property on execution issued against property upon a judgment of a court of record. The proceeds of such sales, less the sheriff's costs, shall be turned over to the commissioner, who shall retain such part thereof as is required to satisfy the tax, interest, penalties and costs, and pay over any balance to the taxpayer. Any action taken by the commissioner pursuant to this subdivision shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy providing for the collection of taxes required to be withheld by employers.

Sec. 2. TEMPORARY RULES.

Prior to the adoption of permanent rules the commissioner may exercise temporary rulemaking authority as provided in section 15.0412, subdivision 5,

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to implement the provisions of this act. Notwithstanding the provisions of section 15.0412, subdivision 5, rules adopted pursuant to this section shall be effective until permanent rules are adopted pursuant to chapter 15 or until April 1, 1982, whichever occurs first.

Sec. 3. **EFFECTIVE DATE.**

Section 1 is effective April 1, 1981. Section 2 is effective the day following final enactment.

Approved March 30, 1981

CHAPTER 14 — S.F.No. 620

An act relating to economic development; extending the date on which the report of the conference on small business is due; extending the life of certain appropriations; amending Laws 1980, Chapter 613, Sections 4 and 5.

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

Section 1. Laws 1980, Chapter 613, Section 4, is amended to read:

Sec. 4. The conference shall report proposals for action to help the development of small business to the legislature and governor by March 1, ~~1981~~ 1982.

Sec. 2. Laws 1980, Chapter 613, Section 5, is amended to read:

Sec. 5. \$10,000 is appropriated from the general fund to the Minnesota conference on small business for the purposes of this act. Gifts to the conference are also appropriated to it for the purposes of this act. Notwithstanding any other law, these appropriations cancel March 31, ~~1981~~ 1982.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective retroactively to February 28, 1981.

Approved March 30, 1981

CHAPTER 15 — S.F.No. 7

An act relating to Traverse County; permitting the issuance of bonds by the county to provide funds for the construction, alteration, repair, and improvement of necessary buildings for county fair purposes, and to aid county agricultural societies to defray related financial obligations; providing for payment of the obligations.

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