Senate Counsel, Research, and Fiscal Analysis

Alexis C. Stangl, Director

Minnesota Senate Building
95 University Ave. W. Suite 3300
ST. PAUL, MN 55155-1800
(651) 296-4791
www.senate.mn/scrfa

Senate

State of Minnesota

S.F. No. 1424 – State and Local Government Policy (1st engrossment)

Author: Senator Erin Murphy

Prepared by: Stephanie James, Senate Counsel (651/296-0103)
Joan White, Senate Counsel (651/296-3814)

Date: April 24, 2023

SF1424 is the State and Local Government policy bill.

Article 1 - State Government

Section 1 [State Fire Museum; §1.1471] designates the Bill and Bonnie Daniels Firefighters Hall and Museum in Minneapolis as the official state fire museum. (SF 1658)

Section 2 [Grants; staff; space; equipment; contracts; §3.303, subd. 6] authorizes the executive director of the Legislative Coordinating Commission (LCC) to enter into contracts for services and supplies for the senate, the house, legislative commissions, and joint legislative offices. Requires the executive director to consult with the chair and vice chair of the LCC before entering into a contract for professional or technical services valued at more than $50,000. (SF 1746)

Section 3 [Unrepresented state employee compensation; § 3.855, subd. 2] eliminates a requirement for the commissioner of management and budget to advise the Legislative Coordinating Commission (LCC) on the progress of collective bargaining activities with state employees. Eliminates the requirement for the commissioner to submit negotiated collective bargaining agreements or arbitration awards to the LCC for approval. Compensation plans and salaries must still be submitted by the commissioner of management and budget or the chancellor of the Minnesota State Colleges and Universities, for their respective employees, to the Legislative Coordinating Commission. (SF 2456, with changes addressing MNSCU.)

Section 4 [Other salaries and compensation plans; §3.855, subd. 3] is a conforming change related to the elimination of legislative review of collective bargaining agreements. (SF 2456)

Section 5 [Information required; §3.855, subd. 5] is a conforming change, removing references to collective bargaining agreements from requirements for information to be submitted to the LCC along with the submission of a collective bargaining agreement. (SF 2456)

Section 6 [Definition; §3.888, subd. 1a] defines "security records" for purposes of the Legislative Commission on Cybersecurity. (New; a different version of a section in SF 1746 that defined "closed meeting records".)

Section 7 [Meetings; §3.888, subd. 5] uses the newly defined term "security records" in place of a list of some materials to be maintained by the LCC for closed meetings of the Legislative Commission on Cybersecurity. Sets a minimum and maximum number of eight and 20 years, respectively, that the LCC must maintain closed meeting records for the Cybersecurity Commission. (SF 1746, with changes)

Section 8 [Closed meetings procedures; §3.888, subd. 5a] requires the Legislative Commission on Cybersecurity to develop procedures for conducting closed meetings before the commission's first closed meeting. This section requires the procedures to include the following: (1) a requirement to provide public notice, when practicable, before a closed meeting of the intent and authority to hold a closed meeting or to hold a closed session during an otherwise open meeting; (2) a requirement that the commission minimize the number of people present at a closed meeting to those necessary to conduct the meeting; (3) a requirement that votes not be taken during a closed meeting or a closed portion of a meeting; (4) steps the commission must take if a member is alleged to have violated the confidentiality of a closed meeting; and (5) guidance from the LCC for the public release of security records after the eight-year period after the meeting. Meetings of the LCC are exempt from the legislative open meeting law when necessary to safeguard the confidentiality of security records. (SF 1746, with changes)

Section 9 [Alleged member closed meeting confidentiality violations; §3.888, subd. 5b] requires the legislative committee with jurisdiction over ethical conduct to preserve the confidentiality of a closed meeting when a complaint alleges a member of the Legislative Commission on Cybersecurity violated the confidentiality requirements for a closed meeting. (SF 1746)

Section 10 [Membership; terms; meetings; compensation; powers; §3.97, subd. 2] changes the appointing authority for the three senate members of the Legislative Audit Commission from the Subcommittee on Committees of the Committee on Rules and Administration to the senate majority leader. This reflects preferred practice for appointments from the senate majority. This section adds a requirement that the chair and vice chair be from different political parties. (SF 2668, as amended by the A-2, adopted in the State Government committee.)

Section 11 [Audit contracts; § 3.972, subd. 3] eliminates a requirement for state government entities to submit audit contracts for review by the Office of the Legislative Auditor (OLA). (SF 2668, as amended by the A-2, adopted in the State Government committee.)

Section 12 [Inquire and inspection power; duty to aid legislative auditor; §3.978, subd. 2] makes technical changes relating to the requirements with respect to the OLA on those who receive public funds. (SF 2668, as amended by the A-2, adopted in the State Government committee.)

Section 13 [Access to data by commission members; §3.979, subd. 2]] is a clarifying change. "Private" and "confidential" data are types of "not public" data, so there is no reason to list them along with "not public" data. Current law, and the law as amended in this section, allows the Legislative Audit Commission access to not public data collected or used by the legislative auditor.

Section 14 [Audit data; §3.979, subd. 3] modifies and clarifies the classification and treatment of data collected by the OLA. (SF 2668, as amended by the A-2, adopted in the State Government committee.)

Paragraph (a): specifies that data collected by the OLA during an assessment is treated in the same manner as data collected during other OLA actions. Clarifies that all data related to an audit are confidential or protected nonpublic until a final report is released or the audit is no longer being actively pursued. Classifies data as private or nonpublic when the OLA decides not to pursue an audit and not release a final report, unless the data is subject to a more restrictive classification.

Paragraph (b): clarifies that data not on individuals is classified as "protected nonpublic" when the data is not published in an audit report and that the OLA believes the data will be used in litigation, until the litigation is completed or abandoned. The "protected nonpublic" classification means that the data on businesses or other entities will not be accessible to the subject of the data for a period of ten years after creation or receipt by the OLA. This treatment will mirror the treatment of data on individuals under the same circumstances, as currently provided in paragraph (b).

Paragraph (c): provides the same treatment under this paragraph for data that can be used to identify a business or other entity as data that can be used to identify an individual. Specifically, data identifying an entity will not be released without the consent of the subject or until 10 years has passed since the OLA received the data, if the data were needed for an audit and the data would not have been provided to the OLA without an assurance that the identity of the individual or entity would remain private or nonpublic or the OLA reasonably believes that the data would not have been provided.

Paragraph (d): eliminates a sentence that makes terms from the Data Practices Act apply. This sentence is moved to a new subdivision in the next section of the bill so that the definitions of the Data Practices Act apply to the whole section. Classifies data relating to an audit that the OLA receives from a nongovernmental entity with the same classification as the data would have if the OLA had received the data from the government entity for which the data were created, collected, or maintained.

Paragraph (e): provides for the OLA to disseminate data of any classification to: (1) government entities, other than law enforcement or prosecuting authorities, if the dissemination of the data aids a pending audit; or (2) law enforcement or prosecuting authorities if there is reason to believe the data is evidence of criminal activity within the agency's or authority's jurisdiction. Allows the supplier of the data for an audit to authorize the OLA to release data that would identify an individual or entity for the purpose of conducting the audit. Data disseminated by the OLA under this paragraph maintains the data classification at the entity receiving the data as the data had when held by the OLA.

Section 15 [Definitions; §3.979, subd. 6] makes the definitions from the Data Practices Act applicable to the whole section. (SF 2668, as amended by the A-2, adopted in the State Government committee.)

Section 16 [Collateral; §9.031, subd. 3] authorizes the Executive Council to approve different forms of collateral for a bank to offer to secure the state's deposits in the bank. (SF 1426)

Section 17 [Procedure when data is not accurate or complete; §13.04, subd. 4] makes changes to the process and timeline for an individual to challenge the accuracy or completeness of public or private data about the individual, under the Data Practices Act that governs data held by a government agency. (SF 2225)

Section 18 [Advice and consent time limit; §15.066, subd. 3] specifies that the senate has consented to an appointment if the senate does not reject the appointment within 60 legislative days of the day of receipt of the letter of appointment. (SF 1220)

Section 19 [Membership; §15A.0825, subd. 1] adds a current employee of an entity in the executive or judicial branch to the list of people who may not serve on the Legislative Salary Council. (SF 1746)

Section 20 [Appointments; convening authority; first meeting in odd-numbered year; §15A.0825, subd. 2] clarifies the timing for appointments to the legislative salary council and eliminates obsolete requirements. (SF 1746)

Section 21 [Terms; §15A.0825, subd. 3] eliminates obsolete language. (SF 1746)

Section 22 [Appointments following redistricting; §15A.0825, subd. 4] requires first appointments after redistricting to be made on the same timeline as appointments at the start of every biennium. (SF 1746)

Section 23 [Alternative energy sources; §16B.32, subd. 1] modifies requirements related to energy efficiency for state building projects.

Under current law, plans for the state to build a new building or a major renovation of an existing building or its energy systems must include designs that use active and passive solar energy systems, earth sheltered construction, and other alternative energy sources where feasible.

> **Paragraph (a)** replaces this requirement with a requirement to deploy cost-effective renewable energy sources or solar thermal energy systems to meet the energy performance standards specified by Sustainable Building 2030 (SB2030) standards if those standards are not achieved with the incorporation of other cost-effective energy efficiency measures into the design, materials, and operations of new buildings or buildings significantly renovated with proceeds from the sale of state general obligation bonds.
>
> **Paragraph (b)** requires the commissioners of administration and commerce to review building designs and plans for compliance with the SB2030 performance standards and make recommendations to the legislature to ensure standards are met.
>
> **Paragraph (c)** defines the terms "energy efficiency," "renewable energy," and "solar thermal energy systems" through cross references to definitions in a chapter of statutes on public utilities.
>
> (SF 2224)

Section 24 [Onsite energy generation from renewabale sources; §16B.32, subd. 1a] eliminates a provision in current law that requires state agencies to "consider" meeting at least two percent of energy needs of a building from renewable sources located on the building site. **Section 24**

precludes the total aggregate nameplate capacity of all renewable energy sources used to meet the SB2030 standards in a state-owned building, including any subscription to a community solar garden, from exceeding 120 percent of the average annual electric energy consumption of the building. (SF 2224)

Section 25 [Office of Collaboration and Dispute Resolution; §16B.361, subd. 1] requires the commissioner of administration to maintain an Office of Collaboration and Dispute Resolution, with specified duties. The Office is currently organized under the Bureau of Mediation Services (repealed at the end of this article), with somewhat different duties. (SF 2225)

Section 26 [Environmental Sustainability Government Operations; §16B.372, subd. 1] creates the Office of Enterprise Sustainability. The office is currently organized under an executive order. (SF 2225)

Section 27 [Electric vehicle charging; §16B.58, subd. 9] requires the commissioner of administration to charge a fee to users of electric vehicle charging stations on the Capitol complex. The fee is determined by the commissioner. (SF 2225)

Section 28 [Award and terms of loans; §16B.87, subd. 2] extends the allowable term, from seven years to ten years, for repayment on a loan to a state agency under a state building energy improvement conservation loan program. (SF 2224)

Sections 29 to 32 modify the small targeted group business program for state contracting. Under current law, small businesses owned by people in targeted groups receive preferences in obtaining state procurement contracts for goods, services, or construction. This bill makes modifications to this program by increasing the cap for a preference in competitive bidding and by increasing the threshold for contracts that can be awarded to small, targeted group businesses without competitive bidding. The bill also allows the commissioner to rely on certification of a business's eligibility as a small group with targeted group ownership from nationally recognized certifying organizations, if conditions are met. Tribally-owned businesses are certified if certified under a certain federal small business program. (SF 1425)

Section 29 [Purchasing methods; §16C.16, subd. 6] increases the cap on the preference, from 6% to 12%, that the commissioner of administration may provide to small, targeted group businesses in the competitive bidding process for state contracts for goods or services. Increases the cap, from $25,000 to $100,000, for the total value of contracts that may be awarded for goods, services, or construction directly to a small business or small targeted group business without a competitive solicitation process. (SF 1425)

Section 30 [Veteran-owned small business; §16C.16, subd. 6a] increases the cap on the preference, from 6% to 12%, that the commissioner of administration may provide to veteran-owned small businesses in the competitive bidding process for state contracts for goods or services. Increases the cap, from $25,000 to $100,000, for the total value of contracts that may be awarded for goods, services, or construction directly to a veteran-owned small business. (SF 1425)

Section 31 [Economically disadvantaged areas; §16C.16, subd. 7] increases the cap on the preference, from 6% to 12%, that the commissioner of administration may provide to small businesses located in economically disadvantaged areas in the competitive bidding process for state contracts for goods or services. Increases the cap, from $25,000 to $100,000, for the total value of

contracts that may be awarded for goods, services, or construction directly to a small business located in an economically disadvantaged area. (SF 1425)

Section 32 [Eligibility; Rules; §16C.19] allows the commissioner to rely on certification by a nationally recognized certifying organization, to certify businesses eligible for the targeted group small business procurement program, if the certifying organization's requirements for certification are substantially the same as rules adopted to implement the program, and if the business meets the standards for a small business in statute (which relies on a federal law definition). This section also provides that a Tribally-owned small business is certified if it is certified under the federal Small Business Administration program. (SF 1425)

Section 33 [Reorganization Services Under Master Contract; § 16C.36] eliminates dated requirements for the commissioner of administration to report on the state's use of contractors for certain purposes. The last report required under this section was in 2014. (SF 2225)

Section 34 [General; 43A.06, subd. 1] eliminates a requirement for the Board of Trustees for the Minnesota State Colleges and Universities to include specified information when submitting a collective bargaining agreement to the Legislative Coordinating Commission. The requirement to submit the contract to the LCC is eliminated in another section. (New; related to SF 2456)

Section 35 [Collective bargaining agreements; §43A.18, subd. 1] is a conforming change, following from the elimination of the requirement for legislative approval of collective bargaining agreements. (New; related to SF 2456)

Section 36 [Summary information on website; §43A.18, subd. 9] is a conforming change, following from the elimination of the requirement to submit collective bargaining agreements and arbitration awards to the Legislative Coordinating Commission for legislative approval or rejection. (New; related to SF 2456)

Section 37 [Membership; §137.0245, subd. 2] changes the appointing authority for twelve senate members for the Regent Candidate Advisory Council from the Subcommittee on Committees of the Committee on Rules and Administration to the majority leader of the senate. (SF 1746)

Section 38 [Public meetings; §137.0245, subd. 6] makes meetings of the Regent Candidate Advisory Council subject to the legislative open meeting law. (SF 1746)

Section 39 [Administration of federal act. §138,081, subd. 3] changes the agency designated as the state agency to administer the federal act providing for preservation of historical and archaeological data and corrects a cross-reference to federal law. (SF 2225)

Section 40 [Consultation; §138.665, subd. 2] eliminates a preclusion on employees of the Historical Society serving on a task force appointed to mediate a disagreement between a state agency and the State Historic Preservation Office about an undertaking that will affect designated or listed historic sites or places. Makes technical and clarifying changes. (SF 2225)

Sections 41 and 42 [§138.912, subd. 1 and 2] expands the definition of farmers' market for purposes of the Healthy Eating, Here at Home program to include direct-farmer sales, including through a community-supported agriculture model. Under the Healthy Eating, Here at Home program, the Humanities Center is authorized to incentivize the use of SNAP benefits for healthy food purchases. (SF1927)

Section 43 [Members; §161.1419, subd. 2] provides for the five citizen members of the Mississippi River Parkway Commission to serve four-year staggered terms. (SF 1746)

Section 44 [Agreements; §179A.22, subd. 4] authorizes the commissioner of management and budget and the board of trustees for Minnesota State Colleges and Universities to enter into collective bargaining agreements with exclusive representatives of their employees. eliminates a requirement for the commissioner or the board of trustees to submit collective bargaining agreements and related arbitration decisions to the legislature for approval or rejection. This section is effective July 1, 2023, for negotiated agreements and arbitration decisions effective after that date. (SF 2456, but with new language to adapt this provision to make it applicable to contracts negotiated with the MNSCU Board of Trustees)

Section 45 [Unclassified service; §383B.32, subd. 2] changes the classified status of certain public safety positions.

This section removes the following positions from the list of unclassified positions:

- Chief criminal deputy sheriff
- Chief civil deputy sheriff
- Chief financial services deputy sheriff

This section adds the following positions to the list of unclassified positions:

- Chief public safety services deputy sheriff
- Chief adult detention and court services deputy sheriff
- Chief community relations deputy sheriff
- Chief investigations deputy sheriff

(SF 2239)

Section 46 [Audits; 462A.22, subd. 10] eliminates a requirement for the Legislative Auditor to review contracts between agencies and public accountants. (SF 2668)

Section 47 [Administration; §507.0945] eliminates a role for the LCC in administering, supporting, and providing meeting space for the Electronic Real Estate Recording Commission. Requires the Electronic Real Estate Commission to evaluate standards relating to recording and filing of property conveyances before adopting them. (SF 1746)

Section 48 [Mississippi River Parkway Commission; Citizen Members] specifies the end dates of the staggered terms for the current citizen members of the Mississippi River Parkway Commission. This section works in conjunction with the requirement in section 4 for the citizen members to serve staggered terms. (SF 1746)

Section 49 [Repealer] repeals:

(a) the Candidate Advisory Council that assisted the governor in selecting candidates for membership on the board of trustees for the Minnesota State Colleges and Universities (SF 1746);

(b) a current requirement for the commissioner of administration to charge a user of an electric charging station on the Capitol complex a fee, where the fee is required to be set at a rate to cover the electricity costs for charging the vehicle and for the administrative costs associated with providing charging stations; (New; related to SF 2225);

(c) repeals the enabling statute for the Office of Collaboration and Dispute Resolution under the Bureau of Mediation Services and a related grant program (SF 2225); and

(d) repeals two sections:

16B.323: requirements for installation of solar energy systems on new state buildings and major renovations of existing state buildings, unless the cost exceeded specified thresholds; and

16B.326: requirement that the commissioner of administration review a project proposer's study for geothermal and solar thermal applications for capital projects that receive funding for replacement of heating or cooling systems or for heating or cooling systems in new buildings. This section requires that, when practicable, geothermal and solar thermal heating and cooling systems be considered for projects constructed or maintained with state funds. (SF 2224)

Article 2 Local Government Policy

Sections 1 to 4 modify the law authorizing additional long-term equity investment authority for cities and counties that was originally passed by the legislature in 2017. These sections are effective the day following final enactment. (SF323)

Section 1 [Section 118A.09, subdivision 1] modifies the definition of the term "qualified government" by (1) expanding the definition to include eligible counties and cities whose most recent long-term, senior general obligation rating is AA or higher (Current law requires the most recently issued general obligation bonds be rated in the highest category, which is AAA); and (2) removing self-insurance pool from the definition, which is replaced by new language under section 4. Paragraph (b) makes conforming changes.

Section 2 [Section 118A.09, subdivision 2] is a technical correction. The requirement that qualifying governments investing in index mutual funds make the investments directly with the main sales office of the fund is moved from clause (2) to clause (1), which is a more suitable place in the law.

Section 3 [Section 118A.09, subd 3] is a conforming change. Strikes language that references self-insurance pools in section 1, which is stricken.

Section 4 [Section 118A.10] allows a self-insurance pool formed under this chapter to invest in securities which are authorized investments of the State Board of Investment under chapter 11A, with the exception of certain investments. Also allows qualifying governments to invest with the State Board of Investment subject to the terms adopted by the State Board of Investment. Before investing, the governing body must adopt an investment policy pursuant to a resolution that includes

a statement that the governing body understands that the investments have risk and that the governing body understands the type of funds that are being invested and the specific investment.

Sections 5 and 6 [Sections 134.114 and 134.115] require the Ramsey County board of commissioners and the Anoka County board of commissioners, respectively, to directly operate and manage the county library system. These sections are effective when the governing body approves the measure by resolution and the resolution is filed with the Secretary of State. (SF2081)

Sections 7 to 12 expand the authority to create, expand, or enlarge special service districts (SSD). SSD is defined as an area within the city where special services are rendered by the city and the costs are paid from revenue collected from service charges imposed on the owners of property in the SSD. Landowners initiate the establishment of an SDD. Currently, special service districts are limited to commercial property owners, but with the increase in mixed-use property, this bill allows for multiunit residential properties to be included in the SSD and as a result, subject to the charges imposed by the city for the services. These sections are effective July 1, 2023, for the establishment, expansion, or enlargement of a special service district. (SF1481)

Sections 7 to 10 [Section 428A.01] defines the following terms: "multiunit residential property," "nonresidential property," "nonresidential owners," and "affordable housing unit."

Section 11 [Section 428A.02, subd 1] modifies the ordinance authority by allowing nonresidential owners to make an election under the new provision in section 12 to include multiunit residential property in the SSD.

Section 12 [Section 428A.021]

Subd 1 relates the establishment of a new districts. This subdivision allows nonresidential owners to elect to include multiunit residential property in the district. The election must be filed with the city clerk. If the election is made, for purposes of filing a petition to request a hearing, both residential and nonresidential property owners are included in determining the percentage threshold for the petition.

Subd 2 relates to the expansion within an existing district. This subdivision allows nonresidential owners to elect to expand the district to include multiunit residential property in the district. The election must be filed with the city clerk. On the question of whether to expand a district to include multiunit residential property, the petition and veto power applies to all owners, individuals, and business organizations that would be subject to the charges.

Subd 3 relates to the enlargement of boundaries of an existing district. Allows petitioners to elect to enlarge a district to include multiunit residential property in the district. The election must be filed with the city clerk.

Subd 4 provides that common interest communities may only be included if the district will provide services not provided by the owner's association.

Section 13 [Section 471.585] amends the municipal rights, duties, and powers chapter of law by creating a new section of law authorizing a city or town to adopt an ordinance requiring hotels, as defined in chapter 327, to have a valid license. The annual license fee may not exceed $150. An ordinance is limited to requirements under state and local law, and the city or town may refuse to issue a license or may revoke a license for failure to comply. (SF833)

Section 14 [Section 473.606, subd 5] is a conforming change due to the repealer in section 17, paragraph (a). (SF1086)

Section 15 dissolves the municipal building commission (MBC), which was established in 1903, and given the exclusive responsibility to care for the courthouse and city hall in Minneapolis. The commission consists of 4 members: the mayor of Minneapolis, chair of the Hennepin County commissioners, one person appointed by the county board, and one appointed by the city council. This bill dissolves the commission and provides a mechanism for the city and county to develop an agreement to jointly contribute to the operation of the courthouse and city hall.

Subd 1 provides that this section supersedes any law, home rule charter provision, or city ordinance to the contrary.

Subd 2 defines terms.

Subd 3 requires the transaction documents provide for the transfer of all assets of the MBC including furniture, fixtures, and equipment to the city of Minneapolis for use in the ongoing operation and management of the courthouse and city hall.

Subd 4 provides that the MBC will be dissolved, and the transactional documents must include how the city of Minneapolis and Hennepin County will manage outstanding liabilities of the MBC.

Subd 5 authorizes the MBC, the city of Minneapolis, and Hennepin County to execute transactional documents to effectuate the transfer of assets and dissolution of the MBC. The MBC, city, and MBC employees must reach an agreement addressing the impact of a dissolution. The MBC, city, and county must fully execute the transactional documents before filing a certificate of local approval.

This section is effective upon local approval. (SF2165)

Section 16 allows the city of St. Paul to solicit and award a design-build contract for a skate park in Eastside Heritage Park in St. Paul. Under the municipal contracting law, a city is not authorized to use a design-build contracting process. Due to the unique design and construction characteristics of a skate park, firms specializing in these projects generally oversee both the design and construction of the project. (SF1433)

Section 17 Repealer
Paragraph (a) repeals the cap imposed on the salaries of employees of political subdivisions of the state, which includes cities, counties, towns, metropolitan or regional agencies, or other political subdivisions. (SF1086)
Paragraph (b) repeals the MBC statutes. (SF2165)

Section 18 (SF1086) makes section 14 and section 17, paragraph (a) effective the day after final enactment.