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BILL SUMMARY

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S.F. No. 3852 – Labor and Industry Policy Omnibus (1st Engrossment)

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Article 1
Construction Codes and Licensing

Section 1 clarifies that licensing under Chapter 326 (licensing as an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer) does not apply to planning and supervision of construction and installation work by a licensed well contractor.

Sections 2 and 4 make a correction to a subdivision reference related to Internet continuing education (CE) courses.

Section 3 exempts Internet continuing education for elevator constructors from the requirement that Internet CE courses be approved by the International Distance Education Certification Center or the International Association for Continuing Education and Training before the course is submitted for the commissioner's approval.

Section 5 removes obsolete language related to alarm and communications licenses and qualifications for a power limited technician.

Section 6 modifies the electrical license owner exemption to allow an individual who owns and occupies or will own and occupy a residence upon completion to perform electrical work on that residence without a license if the residential dwelling has a separate electrical utility service not share with any other dwelling.

Sections 7 and 8 remove outdated references to specific chapters of the National Electrical Code.

Section 9 specifies that a licensed well contractor is exempt from licensing as a plumber under Chapter 326B to do work designing and installing water service lines.

Article 2
Labor Standards

Section 1 [§ 13.79] Identity of complainants. Modifies the statute governing the data classification for individuals that make complaints for certain alleged labor standards violations to adjust for the fact that a complainant may not necessarily be an employee. The identity of complainants under this section is protected as private data. Removes the requirement that data must appear on complaint forms to be considered private data. Allows the commissioner of labor and industry to disclose this data to other government agencies with the consent of the complainant.

Section 2 [§ 177.27] Submission of record; penalty. Allows the commissioner of labor and industry to determine the time and manner in which records must be produced when the commissioner requests records from employers.

Section 3 [§ 177.27] Compliance orders. Provides the commissioner with authority to issue a compliance order for Minn. Stat. § 181.10 (providing that wages must be paid every 15 days) and Minn. Stat. § 181.64 (prohibiting false statements as inducement to entering employment).

Section 4 [§ 177.27] Employer liability. Clarifies the remedies allowed under the Labor Standards Division's compliance order authority. Clarifies that when the commissioner issues a compliance order for violations of retaliation the commissioner may order reinstatement and any other appropriate relief.

Section 5 [§ 177.30] Employer recordkeeping. Adds employee earnings statements to those records that must be retained by an employer for three years.

Section 6 [§ 177.42] Project definition for prevailing wages. Clarifies the definition of "project" for purposes of clarifying the scope of work that triggers prevailing wage requirements.

Section 7 [§ 181.212] Nursing Home Workforce Standards Board voting. Modifies the voting requirements for the Nursing Home Workforce Standards Board to require that any measure passed by the board must have the support of two out of the three commissioner members.

Sections 8 to 10 [§§ 181.939, 181.941, and 181.943] Continuation of benefits for parental leave. Aligns continuation of benefits language in the pregnancy accommodations and pregnancy and parenting leave sections in Chapter 181 with the Paid Family and Medical Leave law. Requires an employer to continue group insurance and health care benefits for the employee and any dependents while on a pregnancy or parental leave, provided the employee continues to pay for the employee share of benefits. Prohibits reducing the length of pregnancy and parental leave by any period of paid or unpaid leave taken for prenatal care medical appointments.

Section 11 [§181A.08] Power of the commissioner related to child labor. Updates compliance order authority, employer liability, and the amount of time an employer has to object to a compliance order (15 days) within the child labor laws to align with authority and liability provisions under Minnesota Statues, Chapter 177.

Section 12 [§181A.12] Fines; penalty. Clarifies the existing penalty structure for violations of child labor laws by an employer. Allows the commissioner to consider various factors, including the size of the business, the gravity of the violation, and the history of violations when determining the fine amount.

Section 13 [§181A.12] Liquidated damages. Add liquidated damages for violations by employers for employing minors in hazardous occupations.

Section 14 [§181A.12] Retaliation. Adds retaliation protections applicable to the child protection laws.

Article 3
Occupational Safety and Health

Section 1 amends definitions within the warehouse distribution worker safety law to clarify the general definitions of "employee" and "employer" found in section 182.651, apply.

Section 2 specifies that Occupational Safety and Health Review Board (OSHRB) meetings and hearings are not subject to open meeting requirements under Chapter 13D for the purpose of board member deliberation to reach its decision on an appeal or petition.

Section 3 clarifies the authority and scope of review for OSHRB.

Section 4 makes clear that all appeals from OSHRB to the Minnesota Court of Appeals are covered by the Minnesota Administrative Procedure Act (Chapter 14), including appeals of OSHRB decisions on petitions to vacate final orders of the commissioner.

Section 5 clarifies the Minnesota OSHA (MNOSHA) factors, but does not change the factors, to consider when assessing fines.

Section 6 allows the commissioner of labor and industry to share active and inactive civil investigative data with a city or county attorney for purposes of enforcing OSHA provisions.

Section 7 amends the definitions of "warehouse distribution center" and "meatpacking site" within the ergonomics law.

Section 8 clarifies that an ergonomics program is required when an employer has employees at the sites specified, including at a licensed health care facility, warehouse distribution center, or meatpacking site.

Article 4
Apprenticeship Policy

Sections 1 and 17 address the handling, classification, and data sharing of apprentice data on individuals reported to, maintained by, or collected by the Department of Labor and Industry. Classifies the apprentice data as private data on individuals.

Sections 2, 8, 16, and 24 align language on protected classes throughout the apprentice law.

Section 3 clarifies the definition of "journeyworker."

Section 4 removes an obsolete date.

Section 5 makes a technical change regarding provisional approval.

Section 6 allows apprenticeship program modifications to be made to ensure compliance with apprenticeship standards under federal law.
Section 7 increases the time allowed for new programs to register an apprentice from 30 to 45 days.

Sections 9 and 10 make technical and clarifying changes related to instruction and schedule.

Section 11 changes the ratio requirements of apprentices to journeyworkers to one-to-one for industries outside of the building and construction trades or any hazardous occupation.

Section 12 clarifies that the Apprenticeship Division must approve the graduated schedule of wages for an apprenticeship program.

Section 13 matches the probationary period statutory language to the federal requirements, which states the probationary period is not to exceed one year or 25% of the program, whichever is shorter.

Section 14 deletes an obsolete date.

Section 15 specifies that an apprenticeship agreement shall be prepared by the sponsor on a form provided by the commissioner of labor and industry. Provides language creating closer alignment to federal requirements for program deregistration.

Section 18 increases the time allowed to file an appeal regarding a violation of the terms of an apprenticeship agreement with the commissioner from ten to 15 days.

Sections 19 to 23 provide language and timeframes creating closer alignment to federal requirements for program deregistration.

Section 25 repeals a rule and statute relating to training cycles.

Article 5
Bureau of Mediation Services

The provisions in **Article 5** make several technical language changes to Bureau of Mediation Services provisions in chapters 179 (labor relations) and 179A (public employment labor relations) to modernize language and provide additional clarity and organization.

Article 6
Minimum Wage

Section 1 moves the definition of "large employer" from inclusion in the minimum wage statute at 177.24 to the general definitions section contained in the Minnesota Fair Labor Standards Act.

Section 2 moves the definition of "small employer" from inclusion in the minimum wage statute at 177.24 to the definitions section contained in the Minnesota Fair Labor Standards Act.

Section 3 modifies several minimum wage provisions contained within section 177.24 by removing the distinctions between large and small employers, for hotels and resorts with summer work travel exchange employees, and minor employees of large employers. The bill retains the existing provision allowing employers to pay a lower training rate for the first 90 days of consecutive

employment for an employee under age 20. Also retained is the provision requiring the DLI commissioner to annually calculate the percentage increase to minimum wage and issue an order adjusting the minimum wage rates by September 30 each year, but with a modification requiring the DLI commissioner to adjust the minimum wage rates by the lesser of the inflation-based percentage or 5 percent (an increase from 2.5 percent). As result of these changes, the large employer minimum wage rate, currently set at $10.85, as adjusted annually, will become the minimum wage rate applicable to most employers starting January 1, 2025, unless the training wage rate for employees under age 20 or another specific statutory rate applies.

Article 7
Miscellaneous Labor Policy

Section 1 proposes to move a portion of a current rule (being repealed in **Section 11**) on payment of tips received by an employee through a credit card or other electronic payment into a new provision within the Minnesota Fair Labor Standards Act in Chapter 177. The bill would now require the full amount of a tip included in a credit card or electronic payment to be provided to the employee in the pay period when they are received. This is from S.F. 4709 (Seeberger).

Section 2 requires an employer with 30 or more employees to include the starting salary range and general description of benefits or other compensation for an available position on any job posting, whether the posting is printed or electronic. “Salary range” is defined as the minimum or maximum salary or hourly range of compensation for a job at the time of posting. This is from S.F. 3725 (Mann).

Section 3 directs the commissioner of labor and industry to create an educational poster providing notice of employees' rights regarding employer-sponsored meetings or communications on the employer’s opinion on religious or political matters. The notice must be available in English and the five most common languages spoken in Minnesota. This is from S.F. 3495 (McEwen).

Section 4 provides a definition of “oral fluid test.” Specifies that the testing is done on a saliva sample to detect drugs, alcohol, cannabis, or their metabolites and does not require the services of a testing laboratory.

Section 5 to 7 make cross references to the new oral fluid testing option for job applicant testing.

Section 8 permits an employer to use oral fluid testing procedures as an alternative to drug and alcohol or cannabis testing for job applicants. Requires a job applicant to take a drug, alcohol, or cannabis test using a testing lab within 48 hours of a positive, inconclusive, or invalid test result to remain eligible for the job. Provides that the rights, notice, and retest procedures of the current law apply to the job applicant and laboratory test. **Sections 4 to 8** are from S.F. 3638 (Marty).

Section 9 prohibits the use of restrictive employment covenants and makes such covenants void and unenforceable. Requires service providers to give notice to employees about this law if their contracts contain this type of restrictive provision. Provides an effective date of August 1, 2024, and applies to contracts entered into or amended on or after that date. This is from S.F. 3721 (Mann).

Section 10 would require health care employers, in facilities where surgeries are performed, to use equipment to capture and filter surgical smoke during surgical procedures likely to generate the smoke. Provides an effective date of January 1, 2025. This section is from S.F. 3948 (McEwen).