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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SIXTH  
SESSION**

**HOUSE FILE No. 1774**

March 16, 2009

Authored by Nelson

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,  
Technology and Elections

1.1 A bill for an act  
1.2 relating to retirement; amending deferred compensation plan provisions; defining  
1.3 terms; regulating the state unclassified employees retirement program; regulating  
1.4 data; amending Minnesota Statutes 2008, sections 352.965, subdivisions 2,  
1.5 6; 352D.015, subdivision 9; 352D.02, by adding a subdivision; 352D.04,  
1.6 subdivision 1; 352D.05, subdivision 3; 352D.06, subdivisions 1, 3; 352D.065,  
1.7 subdivision 3; 352D.09, subdivisions 3, 7.

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

1.9 Section 1. Minnesota Statutes 2008, section 352.965, subdivision 2, is amended to read:

1.10 Subd. 2. **Right to participate in deferred compensation plan.** At the request of an  
1.11 officer or employee of the state, an officer or employee of a political subdivision, or an  
1.12 employee covered by a retirement fund in section 356.20, subdivision 2, the appointing  
1.13 authority shall defer the payment of part of the compensation of the public officer or  
1.14 employee through payroll deduction. The amount to be deferred must be as provided in a  
1.15 written agreement between the officer or employee and the public employer unless the  
1.16 employer elects to automatically enroll participants in the deferred compensation plan,  
1.17 and gives the employee a period of time to opt out of the plan. The agreement must be  
1.18 in a form specified by the executive director of the Minnesota State Retirement System  
1.19 and must be consistent with the requirements for an eligible plan under federal and state  
1.20 tax laws, regulations, and rulings.

1.21 Sec. 2. Minnesota Statutes 2008, section 352.965, subdivision 6, is amended to read:

1.22 Subd. 6. **Plan administrative expenses.** (a) The reasonable and necessary  
1.23 administrative expenses of the deferred compensation plan may be charged to plan  
1.24 participants in the form of an annual fee, an asset-based fee, a percentage of the

2.1 contributions to the plan, or a combination thereof, as set forth in the plan document. The  
 2.2 executive director of the system at the direction of the board of directors shall establish  
 2.3 procedures to carry out this section including allocation of administrative costs of the plan  
 2.4 to participants. Processes and procedures shall be set forth in the plan document. Fees  
 2.5 cannot be charged on contributions and investment returns attributable to contributions  
 2.6 made to the Minnesota supplemental investment funds before July 1, 1992.

2.7 (b) The plan document must conform to federal and state tax laws, regulations, and  
 2.8 rulings, and is not subject to the Administrative Procedure Act.

2.9 (c) The executive director may contract with a third party to perform administrative  
 2.10 and record keeping functions. The executive director may solicit bids and negotiate such  
 2.11 contracts. Participating employers must provide the necessary data to the third-party  
 2.12 administrator as determined by the executive director. Employers may also provide data  
 2.13 on eligible participants who have not yet elected to participate in order to facilitate  
 2.14 electronic enrollment. The third-party record keeper and the Minnesota State Retirement  
 2.15 System shall follow the data privacy provisions under chapter 13. The third-party record  
 2.16 keeper may not solicit participants for any product or services not related to the deferred  
 2.17 compensation plan.

2.18 (d) The board of directors may authorize a third-party investment consultant to  
 2.19 provide investment information and advice, provided that the offering of such information  
 2.20 and advice is consistent with the investment advice requirements applicable to private  
 2.21 plans under Title VI, subtitle A, of the Pension Protection Act of 2006, Public Law  
 2.22 109-280, section 601.

2.23 Sec. 3. Minnesota Statutes 2008, section 352D.015, subdivision 9, is amended to read:

2.24 Subd. 9. **Value.** "Value" means ~~cash value at the end of the month following receipt~~  
 2.25 ~~of an application. If no application is required, "value" means the cash value at the end~~  
 2.26 ~~of the month in which the event necessitating the transfer occurs~~ the value the account  
 2.27 calculated at the end of the most recent United States investment market day.

2.28 Sec. 4. Minnesota Statutes 2008, section 352D.02, is amended by adding a subdivision  
 2.29 to read:

2.30 Subd. 7. **Use of outside record keeper.** Employers shall provide the data to a  
 2.31 third-party record keeper selected by the Minnesota State Retirement System Board of  
 2.32 Directors as deemed necessary by the executive director to administer the unclassified  
 2.33 program. The Minnesota State Retirement System and the third-party record keeper are  
 2.34 required to follow the data privacy provisions under chapter 13. The Minnesota State

3.1 Retirement System and the third-party record keeper are not allowed to solicit any other  
 3.2 products not offered by the Minnesota State Retirement System.

3.3 Sec. 5. Minnesota Statutes 2008, section 352D.04, subdivision 1, is amended to read:

3.4 Subdivision 1. **Investment options.** (a) A person exercising an option to participate  
 3.5 in the retirement program provided by this chapter may elect to purchase shares in one or  
 3.6 a combination of the income share account, the growth share account, the international  
 3.7 share account, the money market account, the bond market account, the fixed interest  
 3.8 account, or the common stock index account established in section 11A.17. The person  
 3.9 may elect to participate in one or more of the investment accounts in the fund by  
 3.10 specifying, ~~on a form provided~~ in a manner prescribed by the executive director, the  
 3.11 percentage of the person's contributions provided in subdivision 2 to be used to purchase  
 3.12 shares in each of the accounts.

3.13 (b) A participant may ~~indicate in writing on forms provided,~~ in a manner prescribed  
 3.14 by the Minnesota State Retirement System a choice of options, choose their investment  
 3.15 allocation for subsequent purchases of shares. Until a different written indication is made  
 3.16 by the participant, the executive director shall purchase shares in the supplemental fund  
 3.17 as selected by the participant. If no initial option is chosen, 100 percent income shares  
 3.18 must be purchased for a participant. A change in choice of investment option is effective  
 3.19 ~~no later than the first pay date first occurring after 30 days following the receipt of the~~  
 3.20 ~~request for a change~~ at the end of the most recent United States investment market day.

3.21 ~~(c) Shares in the fixed interest account attributable to any guaranteed investment~~  
 3.22 ~~contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another~~  
 3.23 ~~account until the guaranteed investment contract has expired, unless the participant~~  
 3.24 ~~qualifies for withdrawal under section 352D.05 or for benefit payments under sections~~  
 3.25 ~~352D.06 to 352D.075.~~

3.26 ~~(d)~~ (c) A participant or former participant may also change the investment options  
 3.27 selected for all or a portion of the participant's shares previously purchased in accounts,  
 3.28 subject to the ~~provisions of paragraph (c) concerning the fixed interest account. Changes~~  
 3.29 ~~in investment options for the participant's shares must be effected as soon as cash flow to~~  
 3.30 ~~an account practically permits, but not later than six months after the requested change~~  
 3.31 trading restrictions imposed on the investment option.

3.32 Sec. 6. Minnesota Statutes 2008, section 352D.05, subdivision 3, is amended to read:

3.33 Subd. 3. **Full or partial withdrawal.** After termination of covered employment  
 3.34 or at any time thereafter, a participant is entitled, upon application, to withdraw the cash

4.1 value of the participant's total shares or leave such shares on deposit with the supplemental  
 4.2 retirement fund. The account is valued at the end of the ~~month in which~~ most recent  
 4.3 United States investment market day following receipt of the application for withdrawal is  
 4.4 made. Shares not withdrawn remain on deposit with the supplemental retirement fund  
 4.5 until the former participant becomes at least 55 years old, and applies for an annuity under  
 4.6 section 352D.06, subdivision 1.

4.7 Sec. 7. Minnesota Statutes 2008, section 352D.06, subdivision 1, is amended to read:

4.8 Subdivision 1. **Annuity; reserves.** When a participant attains at least age 55,  
 4.9 terminates from covered service, and applies for a retirement annuity, the cash value of  
 4.10 the participant's shares shall be transferred to the ~~Minnesota postretirement investment~~  
 4.11 ~~fund and supplemental fixed interest account and shall be used~~ to provide an annuity for  
 4.12 the retired employee based upon the participant's age when the benefit begins to accrue  
 4.13 according to the reserve basis used by the general state employees retirement plan in  
 4.14 determining pensions and reserves.

4.15 Sec. 8. Minnesota Statutes 2008, section 352D.06, subdivision 3, is amended to read:

4.16 Subd. 3. **Accrual date.** An annuity under this section accrues the ~~first day of the~~  
 4.17 ~~first full month after an application is received or the day following termination of state~~  
 4.18 ~~service, whichever is later. The account must be valued and redeemed on the later of the~~  
 4.19 ~~end of the month of termination of covered employment, or the end of the month of receipt~~  
 4.20 ~~of the annuity application for the purpose of computing the annuity~~ day following receipt  
 4.21 of the application or the day following termination, whichever is later. The benefit will be  
 4.22 based on the value of the account the day following receipt of the application or the date of  
 4.23 termination, whichever is later, plus any contributions and interest received after that date.

4.24 Sec. 9. Minnesota Statutes 2008, section 352D.065, subdivision 3, is amended to read:

4.25 Subd. 3. **Annuity payment.** The annuity payable under this section shall begin to  
 4.26 accrue the first day of the month following the date of disability and shall be based on  
 4.27 the participant's age when the annuity begins to accrue. The shares shall be valued as of  
 4.28 the ~~end of the month following authorization of payments~~ day following receipt of the  
 4.29 application or the day after termination, whichever is later, plus any contributions and  
 4.30 interest received after that date.

4.31 Sec. 10. Minnesota Statutes 2008, section 352D.09, subdivision 3, is amended to read:

5.1 Subd. 3. **Prospectus.** The executive director shall annually ~~distribute~~ make  
5.2 available the prospectus prepared by the supplemental fund, by July 1 or when received  
5.3 from such fund, whichever is later, to each participant in covered employment.

5.4 Sec. 11. Minnesota Statutes 2008, section 352D.09, subdivision 7, is amended to read:

5.5 Subd. 7. **Administrative fees.** The board of directors shall establish a budget  
5.6 and charge participants a fee to pay the administrative expenses of the unclassified  
5.7 program. Fees cannot be charged on contributions and investment returns attributable to  
5.8 contributions made before July 1, 1992. ~~Annual total fees charged for plan administration~~  
5.9 ~~cannot exceed 10/100 of one percent of the contributions and investment returns~~  
5.10 ~~attributable to contributions made on or after July 1, 1992.~~