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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2163

02/25/2014 Authored by Nelson, O'Driscoll and Benson, M.,
The bill was read for the first time and referred to the Committee on Government Operations

A bill for an act

1.1 relating to retirement; revising investment authority for various defined
1.2 contribution plans or programs; authorizing the State Board of Investment to
1.3 revise, remove, or create investment options for the Minnesota supplemental
1.4 investment fund; expanding permissible investments under the unclassified
1.5 state employees retirement program, the public employees defined contribution
1.6 plan, the deferred compensation program, and the health care savings plan;
1.7 amending Minnesota Statutes 2012, sections 11A.17, subdivisions 1, 9; 352.965,
1.8 subdivision 4, by adding subdivisions; 352.98, subdivision 2, by adding a
1.9 subdivision; 352D.04, by adding subdivisions; 353D.05, subdivision 1, by
1.10 adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.11 chapter 356; repealing Minnesota Statutes 2012, sections 11A.17, subdivision 4;
1.12 352.965, subdivision 5; 352D.04, subdivision 1; 353D.05, subdivision 2.
1.13

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

1.15 Section 1. Minnesota Statutes 2012, section 11A.17, subdivision 1, is amended to read:

1.16 Subdivision 1. **Purpose; accounts; continuation.** (a) The purpose of the
1.17 supplemental investment fund is to provide an investment vehicle for the assets of various
1.18 public retirement plans and funds.

1.19 (b) ~~The fund consists of eight investment accounts: an income share account, a~~
1.20 ~~growth share account, an international share account, a money market account, a fixed~~
1.21 ~~interest account, a bond market account, a common stock index account, and a volunteer~~
1.22 ~~firefighter account.~~ The state board shall determine and make available investment
1.23 accounts within the supplemental investment fund. These accounts shall include an
1.24 appropriate array of diversified investment options for participants of the public retirement
1.25 plans under subdivision 5.

1.26 (c) The assets of the supplemental investment fund is a continuation of the
1.27 supplemental retirement fund in existence on January 1, 1980 must be invested by the
1.28 state board in investments permitted under section 11A.24.

2.1 (d) The state board shall make available a volunteer firefighter account for the
 2.2 voluntary statewide lump-sum volunteer firefighter retirement plan under section 353G.02.

2.3 **EFFECTIVE DATE.** This section is effective July 1, 2014.

2.4 Sec. 2. Minnesota Statutes 2012, section 11A.17, subdivision 9, is amended to read:

2.5 Subd. 9. **Valuation of investment shares.** (a) The value of investment shares in
 2.6 the income share account, the growth share account, the international share account,
 2.7 the bond market account, and the common stock index for each investment account,
 2.8 excluding a money market account, must be determined by dividing the total market
 2.9 value of the securities constituting the respective account by the total number of shares
 2.10 then outstanding in the investment account.

2.11 (b) The value of investment shares in the a money market account and the fixed
 2.12 interest account is must be valued at \$1 a share. ~~Terms as to withdrawal schedules will be~~
 2.13 ~~agreed upon by the public retirement fund and the state board.~~

2.14 **EFFECTIVE DATE.** This section is effective July 1, 2014.

2.15 Sec. 3. Minnesota Statutes 2012, section 352.965, subdivision 4, is amended to read:

2.16 Subd. 4. **Plan investments.** (a) Available investments under the plan may include:
 2.17 are those investments chosen by the State Board of Investment under section 356.645 for
 2.18 the plan.

2.19 (1) ~~shares in the Minnesota supplemental investment fund established in section~~
 2.20 ~~11A.17 that are selected to be offered under the plan by the State Board of Investment;~~

2.21 (2) ~~saving accounts in federally insured financial institutions;~~

2.22 (3) ~~life insurance contracts, fixed annuity, and variable annuity contracts from~~
 2.23 ~~companies that are subject to regulation by the commissioner of commerce;~~

2.24 (4) ~~investment options from open-end investment companies registered under the~~
 2.25 ~~federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1~~
 2.26 ~~to 80a-64;~~

2.27 (5) ~~investment options from a firm that is a registered investment advisor under the~~
 2.28 ~~Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21;~~

2.29 (6) ~~investment options of a bank as defined in United States Code, title 15, section~~
 2.30 ~~80b-2, subsection (a), paragraph (2), or a bank holding company as defined in the Bank~~
 2.31 ~~Holding Company Act of 1956, United States Code, title 12, section 1841, subsection~~
 2.32 ~~(a), paragraph (1); or~~

3.1 ~~(7) a combination of clause (1), (2), (3), (4), (5), or (6), as provided by the plan as~~
 3.2 ~~specified by the participant.~~

3.3 (b) The state, the State Board of Investment and its executive director and staff,
 3.4 the Minnesota State Retirement System Board and its executive director and staff, and
 3.5 participating public employers are not liable and are not responsible for any investment
 3.6 losses due to choices made by participants or due to default options.

3.7 ~~(b) All amounts contributed to the deferred compensation plan and all earnings~~
 3.8 ~~on those amounts must be held for the exclusive benefit of the plan participants and~~
 3.9 ~~beneficiaries. These amounts must be held in trust, in custodial accounts, or in qualifying~~
 3.10 ~~annuity contracts as required by federal law in accordance with section 356A.06,~~
 3.11 ~~subdivision 1. This subdivision does not authorize an employer contribution, except as~~
 3.12 ~~authorized in section 356.24, subdivision 1, paragraph (a), clause (5). The state, political~~
 3.13 ~~subdivision, or other employing unit is not responsible for any loss that may result from~~
 3.14 ~~investment of the deferred compensation.~~

3.15 **EFFECTIVE DATE.** This section is effective July 1, 2014.

3.16 Sec. 4. Minnesota Statutes 2012, section 352.965, is amended by adding a subdivision
 3.17 to read:

3.18 Subd. 4a. **Exclusive benefit.** All amounts contributed to the deferred compensation
 3.19 plan and all earnings on those amounts must be held for the exclusive benefit of the plan
 3.20 participants and beneficiaries. These amounts must be held in trust, in custodial accounts,
 3.21 or in qualifying annuity contracts as required by federal law in accordance with section
 3.22 356A.06, subdivision 1.

3.23 **EFFECTIVE DATE.** This section is effective July 1, 2014.

3.24 Sec. 5. Minnesota Statutes 2012, section 352.965, is amended by adding a subdivision
 3.25 to read:

3.26 Subd. 4b. **Employer contribution prohibition.** Except as authorized in section
 3.27 356.24, subdivision 1, clause (5), employer contributions are prohibited.

3.28 **EFFECTIVE DATE.** This section is effective July 1, 2014.

3.29 Sec. 6. Minnesota Statutes 2012, section 352.98, is amended by adding a subdivision
 3.30 to read:

3.31 Subd. 1a. **Member investment responsibility.** The state, the State Board of
 3.32 Investment and its executive director and staff, the Minnesota State Retirement System

4.1 Board and its executive director and staff, and participating public employers are not liable
 4.2 and are not responsible for any investment losses due to choices made by participants
 4.3 or due to default options.

4.4 **EFFECTIVE DATE.** This section is effective July 1, 2014.

4.5 Sec. 7. Minnesota Statutes 2012, section 352.98, subdivision 2, is amended to read:

4.6 Subd. 2. **Contracting authorized.** (a) The executive director shall administer
 4.7 the plan and contract with public and private entities to provide investment services,
 4.8 record keeping, benefit payments, and other functions necessary for the administration of
 4.9 the plan. If allowed by

4.10 (b) As specified in section 356.645, the Minnesota State Board of Investment, the
 4.11 Minnesota State Board of Investment supplemental investment funds may be offered as
 4.12 shall determine an appropriate selection of investment options under that shall be offered
 4.13 by the health care savings plan or plans.

4.14 **EFFECTIVE DATE.** This section is effective July 1, 2014.

4.15 Sec. 8. Minnesota Statutes 2012, section 352D.04, is amended by adding a subdivision
 4.16 to read:

4.17 Subd. 1a. **State Board of Investment selection of investment products.** As
 4.18 specified in section 356.645, the State Board of Investment shall select investment
 4.19 products to be available to participants in the retirement program provided by this chapter.

4.20 **EFFECTIVE DATE.** This section is effective July 1, 2014.

4.21 Sec. 9. Minnesota Statutes 2012, section 352D.04, is amended by adding a subdivision
 4.22 to read:

4.23 Subd. 1b. **Participant selection of investments.** (a) A program participant may
 4.24 elect to participate in one or more of the investment products made available under the
 4.25 program by specifying the percentage of the participant's contributions under subdivision
 4.26 2 to be used to purchase shares in the applicable products.

4.27 (b) Before making an allocation election, or if the participant fails to specify an
 4.28 allocation, the executive director shall, on behalf of that participant, purchase shares
 4.29 in a default investment alternative. The investment alternative must be specified by
 4.30 the Minnesota State Retirement System Board from the available investment options
 4.31 authorized under subdivision 1a.

5.1 (c) A participant may revise the investment allocation for subsequent purchase of
 5.2 shares, and a participant or former participant may also change the investment options
 5.3 selected for all or a portion of shares previously purchased.

5.4 (d) Any investment allocation selection authorized under this subdivision, whether
 5.5 relating to subsequent purchases of new shares or reallocating the existing portfolio,
 5.6 must be conducted at times and under procedures prescribed by the executive director.
 5.7 Any allocation or allocation revisions are effective at the end of the most recent United
 5.8 States investment market day, unless subject to trading restrictions imposed on certain
 5.9 investment options.

5.10 (e) The state, the State Board of Investment and its executive director and staff,
 5.11 the Minnesota State Retirement System Board and its executive director and staff, and
 5.12 participating public employers are not liable and are not responsible for any investment
 5.13 losses due to choices made by participants or due to default options.

5.14 **EFFECTIVE DATE.** This section is effective July 1, 2014.

5.15 Sec. 10. Minnesota Statutes 2012, section 353D.05, subdivision 1, is amended to read:

5.16 Subdivision 1. **Investment.** As further specified under this section, employing unit
 5.17 contributions, after the deduction of an amount for administrative expenses, and individual
 5.18 participant contributions must be ~~remitted to~~ invested in the participant's account or
 5.19 accounts in investment products authorized by the association that are made available
 5.20 for this purpose by the State Board of Investment ~~for investment in the Minnesota~~
 5.21 supplemental investment fund established by ~~under~~ section ~~11A.17~~ 356.645.

5.22 **EFFECTIVE DATE.** This section is effective July 1, 2014.

5.23 Sec. 11. Minnesota Statutes 2012, section 353D.05, is amended by adding a
 5.24 subdivision to read:

5.25 Subd. 1a. **Participant selection of investments.** (a) A plan participant may elect
 5.26 to allocate contributions, made by and on behalf of the participant, in one or more of the
 5.27 investment products authorized by the association to be made available under the plan,
 5.28 by specifying the percentage of the participant's contributions to be used to purchase
 5.29 shares in the authorized products.

5.30 (b) If contributions are received before the participant has made an allocation
 5.31 election, or if the participant fails to specify an allocation, the executive director shall,
 5.32 on behalf of that participant, purchase shares in a default investment alternative. The

6.1 investment option must be specified by the Public Employees Retirement Association board
 6.2 of trustees from the designated available investment options authorized under this section.

6.3 (c) A participant may revise the investment allocation for subsequent purchase of
 6.4 shares, and a participant or former participant may also change the investment options
 6.5 selected for all or a portion of shares previously purchased.

6.6 (d) Any investment allocation selection authorized under this subdivision, whether
 6.7 relating to subsequent purchases of new shares or reallocating the existing portfolio, must
 6.8 be conducted at times and under procedures prescribed by the executive director.

6.9 (e) The state, the State Board of Investment and its executive director and staff, the
 6.10 Public Employees Retirement Association board of trustees and its executive director and
 6.11 staff, and participating public employers are not liable and are not responsible for any
 6.12 investment losses due to choices made by participants or due to default options.

6.13 **EFFECTIVE DATE.** This section is effective July 1, 2014.

6.14 Sec. 12. **[356.645] INVESTMENT OF VARIOUS DEFINED CONTRIBUTION**
 6.15 **PLAN ASSETS.**

6.16 The State Board of Investment shall determine the investments to be made available
 6.17 to plan participants in plans defined in sections 352.965, 352.98, and chapters 352D
 6.18 and 353D. Investments made available to plan participants must include at least one or
 6.19 all of the following:

6.20 (1) shares in the Minnesota supplemental investment fund established in section
 6.21 11A.17;

6.22 (2) saving accounts in federally insured financial institutions;

6.23 (3) life insurance contracts, fixed annuity contracts, and variable annuity contracts
 6.24 from companies that are subject to regulation by the commissioner of commerce;

6.25 (4) investment options from open-end investment companies registered under the
 6.26 federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1
 6.27 to 80a-64;

6.28 (5) investment options from a firm that is a registered investment adviser under
 6.29 the Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to
 6.30 80b-21; and

6.31 (6) investment options of a bank as defined in United States Code, title 15, section
 6.32 80b-2, subsection (a), paragraph (2), or a bank holding company as defined in the Bank
 6.33 Holding Company Act of 1956, United States Code, title 12, section 1841, subsection
 6.34 (a), paragraph (1).

7.1 **EFFECTIVE DATE.** This section is effective July 1, 2014.

7.2 Sec. 13. **REPEALER.**

7.3 Minnesota Statutes 2012, sections 11A.17, subdivision 4; 352.965, subdivision 5;
7.4 352D.04, subdivision 1; and 353D.05, subdivision 2, are repealed.

7.5 **EFFECTIVE DATE.** This section is effective July 1, 2014.

11A.17 MINNESOTA SUPPLEMENTAL INVESTMENT FUND.

Subd. 4. **Investment.** The assets of the supplemental investment fund must be invested by the state board subject to section 11A.24; provided, however, that:

- (1) the bond market account and the money market account must be invested entirely in debt obligations;
- (2) the growth share account and the common stock index account may be invested entirely in corporate stocks;
- (3) the international share account may be invested entirely in international stocks; and
- (4) the fixed interest account may be invested in guaranteed investment contracts and debt obligations.

352.965 MINNESOTA STATE DEFERRED COMPENSATION PLAN.

Subd. 5. **State Board of Investment to determine investments.** (a) The State Board of Investment shall determine the investment products to be made available under the plan and may retain appropriate consulting services to assist in making the selections. At a minimum, the State Board of Investment shall consider the following:

- (1) the experience and ability of the financial institution to provide benefits and products that are suited to meet the needs of plan participants;
- (2) the relationship of those benefits and products provided by the financial institution to their cost;
- (3) the financial strength and stability of the financial institution; and
- (4) the fees and expenses associated with the investment products in comparison to other products of similar risk and rates of return.

(b) If the State Board of Investment so elects, it may solicit bids for options under subdivision 4, clauses (2), (3), (4), (5), and (6). The State Board of Investment may retain consulting services to assist in soliciting and evaluating bids and in the periodic review of companies offering options under subdivision 4, clauses (3), (4), (5), and (6). The periodic review must occur at least every two years. The State Board of Investment may annually establish a budget for its costs in soliciting, evaluation, and periodic review processes. All options in subdivision 4 must be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all participants in the deferred compensation plan, and not be the subject of unreasonable solicitation of participants in the plan. The State Board of Investment may charge a proportional share of all costs related to the periodic review to each company currently under contract and may charge a proportional share of all costs related to soliciting and evaluating bids to each company selected by the State Board of Investment.

(c) Under the procedures set forth in the plan document, participants may select the funds or combination of funds within which to invest and may reallocate those investments as provided in the plan document and procedures established by the executive director.

(d) This section does not authorize an employer contribution, except as authorized in section 356.24, subdivision 1, paragraph (a), clause (5).

(e) The state, the Minnesota State Retirement System, the executive director and board of directors of the system, the State Board of Investment, and participating public employers are not liable and not responsible for any loss that may result from investment of the deferred compensation or the investment choices made by the participants.

352D.04 INVESTMENT OPTIONS.

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

(b) A participant may, in a manner prescribed by the executive director, choose their investment allocation for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be

APPENDIX

Repealed Minnesota Statutes: 14-4510

purchased for a participant. A change in choice of investment option is effective at the end of the most recent United States investment market day.

(c) A participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts, subject to the trading restrictions imposed on the investment option.

353D.05 INVESTMENT OF FUNDS.

Subd. 2. **Investment options.** (a) A participant may elect to purchase shares in the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of the total contributions to be used to purchase shares in each of the accounts.

(b) A participant or a former participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant or former participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment account or accounts specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceeds 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account.

(c) Shares in the fixed interest account attributable to any guaranteed investment contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts, subject to the provisions of paragraph (c) concerning the fixed interest account.

(e) The change or selection of an investment option or the transfer of all or a portion of the deceased or former participant's shares in the income share, growth share, common stock index, bond market, international share, money market, or fixed interest accounts must not be made following death of the participant or former participant.