A bill for an act

relating to retirement; amending postretirement provisions; providing for the dissolution of the Minnesota postretirement investment fund; amending Minnesota Statutes 2006, section 11A.18, subdivision 9, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 11A.

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

ARTICLE 1

POSTRETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2006, section 11A.18, is amended by adding a subdivision to read:

Subd. 2a. **Composite funded ratio.** (a) Annually, following June 30, the actuary retained under section 356.214 shall determine the composite funded ratio of the postretirement investment fund. The composite funded ratio is stated as a percentage and calculated using:

(1) the total fair market value of the postretirement investment fund as of June 30, calculated in accordance with generally accepted accounting principles; divided by

(2) the total reserves required as of June 30 for the annuities or benefits payable from the postretirement investment fund on that June 30 to all recipients of participating public pension plans or funds, as determined by the actuary retained under section 356.214 using the applicable assumptions in section 356.215.

(b) The actuary retained under section 356.214 shall report the composite funded ratio to the executive directors of each participating retirement fund and the Legislative Commission on Pensions and Retirement by November 30 of the year in which the ratio is calculated.

Sec. 2. Minnesota Statutes 2006, section 11A.18, subdivision 9, is amended to read:

Subd. 9. **Calculation of postretirement adjustment.** (a) Annually, following June 30, the state board shall use the procedures in paragraphs (b), (c), and (d) to determine whether a postretirement adjustment is payable and to determine the amount of any postretirement adjustment.

(b) (1) If the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor increases from June 30 of the preceding year to June 30 of the current year, the state board shall certify the percentage increase.

(2) The amount certified must not exceed: ~~the lesser of the difference between the preretirement interest assumption and postretirement interest assumption in section 356.215, subdivision 8, paragraph (a), or~~

(i) 2.5 percent~~.~~; or

(ii) for the Minneapolis Employees Retirement Fund, ~~the amount certified must not exceed~~ 3.5 percent.

(c) If the amount calculated under paragraph (b), clause (1), is greater than the maximum amount allowable under paragraph (b), clause (2), item (i), in addition to any percentage increase certified under paragraph (b), the board shall use the following procedures to determine if a postretirement adjustment is payable under this paragraph:

(1) the state board shall determine the total fair market value of the fund on June 30 of that year;

(2) the amount of reserves required as of the current June 30 for the annuity or benefit payable to an annuitant and benefit recipient of the participating public pension plans or funds must be determined by the actuary retained under section 356.214. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30 is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment. This amount is known as "eligible reserves." Each fund shall also report separately the amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment. This amount is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, each fund shall report separately as additional "eligible reserves" an amount that bears the same ratio to the total reserves

required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves must be separately reported as additional "noneligible reserves." The amount of "eligible" and "noneligible" required reserves must be certified to the board by the actuary retained under section 356.214 as soon as is practical following the current June 30;

(3) the state board shall determine the percentage increase certified under paragraph (b) multiplied by the eligible required reserves, as adjusted for mortality gains and losses under subdivision 11, determined under clause (2);

(4) the state board shall add the amount of reserves required for the annuities or benefits payable to annuitants and benefit recipients of the participating public pension plans or funds as of the current June 30 to the amount determined under clause (3);

(5) the state board shall subtract the amount determined under clause (4) from the total fair market value of the fund determined under clause (1);

(6) the state board shall adjust the amount determined under clause (5) by the cumulative current balance determined under clause (8) and any negative balance carried forward under clause (9);

(7) a positive amount resulting from the calculations in clauses (1) to (6) is the excess market value. A negative amount is the negative balance;

(8) the state board shall allocate one-fifth of the excess market value or one-fifth of the negative balance to each of five consecutive years, beginning with the fiscal year ending the current June 30; ~~and~~

(9) to calculate the postretirement adjustment under this paragraph ~~based on investment performance for a fiscal year~~, the state board shall add together all excess market value allocated to that year and subtract from the sum all negative balances allocated to that year. If this calculation results in a negative number, the entire negative balance must be carried forward and allocated to the next year. If the resulting amount is positive, a postretirement adjustment is payable under this paragraph. The board shall express a positive amount as a percentage of the total eligible required reserves certified to the board under clause (2). The percentage determined under this paragraph must not exceed the difference between:

(i) the increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor from June 30 of the preceding year to June 30 of the current year; and

(ii) 2.5 percent; and

(10) for the Minneapolis Employees Retirement Fund, the board of the Minneapolis Employees Retirement Fund:

(i) must use the procedures in clauses (1) to (9) to determine an increase under this paragraph regardless of the increase in the Consumer Price Index for urban and wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor; and

(ii) there is no limit on the maximum amount certified under this paragraph.

(d) The state board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(1) The total "eligible" required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment as determined by clause (2) must be certified to the state board by the actuary retained under section 356.214. The total "eligible" required reserves must be determined by the actuary retained under section 356.214 on the assumption that all annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment will be alive on the January 1 in question; and

(2) The state board shall add the percentage certified under paragraph (b) to any positive percentage calculated under paragraph (c). The board shall not subtract from the percentage certified under paragraph (b) any negative amount calculated under paragraph (c). The sum of these percentages ~~must be carried to five decimal places and~~ must be certified to each participating public pension fund or plan as the full postretirement adjustment percentage. The full postretirement adjustment percentage certified to each participating public pension plan or fund must not exceed five percent. For the Minneapolis Employees Retirement Fund, no maximum percentage adjustment is applicable.

(e) A retirement annuity payable in the event of retirement before becoming eligible for Social Security benefits as provided in section 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 or 65, whichever applies. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Sec. 3. Minnesota Statutes 2006, section 11A.18, is amended by adding a subdivision to read:

Subd. 9a. **Lost purchasing power increase.** (a) This subdivision applies for fiscal years ending June 30 in which all of the following conditions exist:

(1) the composite funded ratio for the postretirement investment fund as of June 30, as determined by the actuary retained under section 356.214, is more than 90 percent;

(2) the State Board of Investment determines that the time weighted total rate of return on investment of assets in the postretirement investment fund for the fiscal year ending June 30 exceeds 8.5 percent; and

(3) the postretirement adjustment percentage certified under subdivision 9, paragraph (b), is less than 2.5 percent.

(b) The resulting postretirement increase from paragraph (a) is payable the following January 1.

(c) Each participating public pension fund or plan must annually calculate:

(1) the cumulative postretirement adjustment percentage applied to the annuity or benefit paid to each eligible annuitant and benefit recipient since the person first received a postretirement adjustment; and

(2) the increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor from June 30 of the year before the person first received a postretirement adjustment to June 30 of the current year. If a person received a prorated increase under subdivision 9, paragraph (c), clause (2), the same ratio of number of months receiving a monthly benefit to twelve months must be applied to the inflation calculation for the fiscal year used to calculate the prorated amount of lost purchasing power for that period. If the percentage in clause (2) is greater than the percentage in clause (1) with respect to a person, and the conditions in paragraph (a) are met, that person is eligible to receive an increase under this subdivision.

(d) The percentage increase payable to a person under this subdivision may not exceed the difference between 2.5 percent and the amount certified under subdivision 9 or the amount calculated under paragraph (b), whichever is lower. The percentage increase otherwise payable under this subdivision must be reduced as provided in paragraph (e).

(e) The actuary retained under section 356.214 must determine:

(1) the reserves that would be required to pay adjustments determined under paragraph (c); and

(2) the excess market value necessary to maintain the accrued liability composite funding ratio at 90 percent or more, funded under paragraph (a), clause (1). If clause (1) of this paragraph is greater than clause (2), the increase paid to each person under this

subdivision must be determined by multiplying the ratio of clause (2) divided by clause (1), multiplied by the percentage that otherwise would be payable under paragraph (c).

(f) A percentage increase certified under this subdivision must be added to the percentage certified under subdivision 9, and the total percent must be certified to each participating public pension fund or plan as the full postretirement adjustment percentage.

(g) This subdivision does not apply to the Minneapolis Employees Retirement Fund.

Sec. 4. Minnesota Statutes 2006, section 11A.18, is amended by adding a subdivision to read:

Subd. 9b. **Excess assets trigger.** If the composite funded ratio of the postretirement investment fund created in subdivision 2a is 115 percent or greater on June 30 of any year, the governing bodies of the retirement funds participating in the postretirement investment fund must jointly report to the Legislative Commission on Pensions and Retirement by the next January 15. The report must evaluate and make recommendations for the overall benefits and funding of the retirement funds for both active employees and benefit recipients.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective June 30, 2008.

ARTICLE 2
MINNESOTA POSTRETIREMENT INVESTMENT FUND DISSOLUTION

Section 1. **[11A.181] DISSOLUTION OF MINNESOTA POSTRETIREMENT INVESTMENT FUND.**

Subdivision 1. **Conditions for dissolution.** The postretirement investment fund established in section 11A.18 must be dissolved according to the schedule in subdivision 2 if the composite funded ratio calculated on June 30 of each year under section 11A.18, subdivision 2a, is:

(1) less than 85 percent for two consecutive years; or

(2) less than 80 percent for one year.

Subd. 2. **Transition.** If conditions for dissolution of the postretirement investment fund under subdivision 1 apply:

(1) retirement funds shall not transfer reserves as required under sections 11A.18, subdivision 6; 352.119, subdivision 1; 352B.26, subdivision 3; 353.271, subdivision 2; 354.63, subdivision 2; and 490.123, subdivision 1e, to the postretirement investment

fund after December 31 as of the calendar year in which conditions for dissolution under subdivision 1 occur;

(2) the retirement funds shall not transfer additional funds to the Minnesota postretirement investment fund as a result of the calculation by the actuary retained under section 356.214 adjusting for mortality gains and losses specified in section 11A.18, subdivision 11;

(3) the assets of the postretirement investment fund must be transferred back to each participating public retirement plan on June 30 of the year following the year in which conditions for dissolution under subdivision 1 occur. The assets to be transferred to each public retirement plan must be based on each plan's participation in the postretirement fund, as determined under section 11A.18, subdivision 7, on June 30 when the transfer back to the plan occurs; and

(4) The postretirement fund is dissolved upon transfer of assets as required in clause (3).

Subd. 3. **Postretirement adjustments.** (a) Notwithstanding section 11A.18 or any other law to the contrary, if the postretirement investment fund is dissolved, postretirement adjustments must be paid only as follows:

(1) a postretirement increase of 2.5 percent must be applied, effective January 1 of each year, to the monthly annuity or benefit of each annuitant and benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the prior June 30; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, a postretirement increase of one-twelfth of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1 of the year in which the person has been retired for less than 12 months.

(b) The increases provided by this subdivision apply on the first January 1 after the postretirement fund is dissolved under subdivision 2.

Sec. 2. **PROPOSED STATUTORY CHANGES.**

By November 30 of the year in which conditions for dissolution of the postretirement fund first occur, the executive directors of the retirement systems that participate in the postretirement fund must report to the Legislative Commission on Pensions and Retirement a draft of proposed legislation that would make changes in statute necessary to conform with dissolution of the postretirement fund.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective June 30, 2008.

APPENDIX
Article locations in 08-5708