

Section 1 is effective August 1, 1985, and applies to wills executed or amended on or after the effective date.

Approved March 21, 1985

CHAPTER 11 — S.F.No. 122

An act relating to retirement; public employees retirement association; setting the salary range of the executive director; changing the membership of the board; providing qualifications for the executive director; requiring advice and consent of the senate for appointment of the executive director; defining the duties of the board; ending the terms of current board members; defining the duties of the executive director; amending Minnesota Statutes 1984, sections 15A.081, subdivision 1; 43A.04, subdivision 1; 43A.10, subdivision 6; and 353.03, subdivisions 1, 1a, 2, 3, 3a, and 5.

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

Section 1. **FINDINGS.**

The legislature reaffirms that the public employees retirement association is a public agency, created by and subject to the control of the legislature. The legislature is responsible for assuring that the laws establishing the association lead to responsible governance and efficient administration. The legislature must assure that the board of trustees fulfills its fiduciary obligations to the state, to the taxpayers, and to the members of the association.

The legislature finds that actions of the association board of trustees have damaged public confidence in the association's ability to fulfill its fiduciary obligations and to operate in accordance with legislative intent. The legislature finds that this act is necessary to assure that the board of trustees will fulfill its fiduciary obligations and will responsibly administer the affairs of the association in keeping with legislative intent.

Sec. 2. Minnesota Statutes 1984, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. **SALARY.** The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

	Salary Range Effective July 1, 1983
Commissioner of education; Commissioner of finance; <u>Commissioner of transportation;</u> Commissioner of human services; Chancellor, community college system; Chancellor, state university system; Director, vocational technical education Executive director, state board of investment;	\$57,500-\$70,000
Commissioner of administration; Commissioner of agriculture; Commissioner of commerce; Commissioner of corrections; Commissioner of economic security; Commissioner of employee relations; Commissioner of energy and economic development; Commissioner of health; Commissioner of labor and industry; Commissioner of natural resources; Commissioner of revenue; Commissioner of public safety; Chairperson, waste management board Chief administrative law judge; office of administrative hearings; Director, pollution control agency; Director, state planning agency; Executive director, higher education coordinating board; Executive director, housing finance agency; <u>Executive director, public employees retirement association;</u> Executive director, teacher's retirement association; Executive director, state retirement system;	\$50,000-\$60,000
Commissioner of human rights; Director, department of public service; Commissioner of veterans' affairs; Director, bureau of mediation services; Commissioner, public utilities commission; Member, transportation regulation board; Director, zoological gardens.	\$40,000-\$52,500

Sec. 3. Minnesota Statutes 1984, section 43A.04, subdivision 1, is amended to read:

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Subdivision 1. **STATEWIDE LEADERSHIP.** The commissioner shall be the chief personnel and labor relations manager of the civil service in the executive branch.

(a) Whenever any power or responsibility is given to the commissioner by any provision of Laws 1981, Chapter 210, unless otherwise expressly provided, the power or authority shall apply to all employees of agencies in the executive branch and to employees in classified positions in the office of the legislative auditor, the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. Unless otherwise provided by law, the power or authority shall not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner shall have access to all public and private personnel data kept by appointing authorities which will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of Laws 1981, Chapter 210 and may order any remedial actions consistent with law.

Sec. 4. Minnesota Statutes 1984, section 43A.10, subdivision 6, is amended to read:

Subd. 6. **ELIGIBILITY FOR COMPETITIVE PROMOTIONAL EXAMINATIONS.** Competitive promotional examinations shall be open only to employees of the civil service, the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. The commissioner may require that competition be extended to all employees as defined above or may limit competition to employees of one or more agencies or organizational units thereof or to employees meeting specified employment conditions.

Sec. 5. Minnesota Statutes 1984, section 353.03, subdivision 1, is amended to read:

Subdivision 1. **MANAGEMENT; COMPOSITION; ELECTION.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of ~~15~~ the state auditor and eight members, ~~who shall be known as the board of trustees. This board shall consist of four trustees~~ The governor shall appoint five trustees to four-year terms, one of whom shall be designated by each of the following associations or organizations, Minnesota to represent school boards association, League of Minnesota one to represent cities, Association of Minnesota one to represent counties and the executive committee

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of the statewide general labor organization which includes among its membership the employee organizations, as defined in section 179A.03, subdivision 6, which represent the largest number of employees who are association members; nine area trustees, who shall be elected from the membership employed in one of the areas described below by the members employed in such area except members of the police and fire fund; one trustee who shall be a retired annuitant elected at large by other retired annuitants and disabilitants; and one trustee who is a public member of the police and fire fund elected at large by the membership of the police and fire fund knowledgeable in pension matters. Trustees elected by the membership of the association or by the retired annuitants and disabilitants of the association shall be elected elect three trustees for a term terms of four years. Trustees designated by an association or organization or elected or selected by the use of a procedure other than direct election by the membership of the association or by the annuitants of the association shall hold office for a term of two years or until the designation, election or selection procedure is changed, if that occurs earlier be public employees and members of the association. For seven days beginning November 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. An area A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund from the area of the candidate, a retired annuitant candidate, a nominating petition signed by any combination of 25 or more retired annuitants or disabilitants, and a police and fire fund candidate, a nominating petition signed by 25 or more members of such fund. No name may be withdrawn from nomination by the nominee after November 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. Disputes between the board and a candidate concerning application of these policies to a particular statement shall be resolved by the secretary of state. A candidate who:

(a) receives contributions or makes expenditures in excess of \$100; or

(b) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100;

for the purpose of bringing about the candidate's election, must file a report with the ethical practices board disclosing the source and amount of all contributions to his or her campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate must file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for

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public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members, ~~retired annuitants and disabilitants,~~ ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position shall be void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. ~~Except as provided in this section,~~ all Terms expire on January 31 of the fourth year, and ~~the position shall remain~~ positions are vacant until the newly elected member is members are qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret. ~~For the purpose of electing the nine area trustees, the state shall be divided into three areas as follows: Area one shall include Anoka, Hennepin, Ramsey and Washington counties. Area two shall include Big Stone, Swift, Kandiyohi, Meeker and Wright counties and all counties south thereof, except counties in area one. Area three shall include all the remaining counties of the state. If any governmental unit is located in more than one area, place of employment shall be deemed to be in the area in which the main office of the governmental unit is located. Each year for three years one area trustee shall be elected to a four-year term from each area by the members employed in the respective areas. In the fourth year one trustee shall be elected at large by the police and fire fund membership and one trustee elected at large by the retired annuitants and disabilitants.~~

The elections shall be supervised by the secretary of state. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries. They shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs.

Sec. 6. Minnesota Statutes 1984, section 353.03, subdivision 1a, is amended to read:

Subd. 1a. **VACANCY, HOW FILLED.** Any vacancy on the board caused by death, resignation, or removal of any ~~member so elected shall trustee, or occurring because an elected trustee ceases to be a public employee and an active member of the association,~~ must be filled by the board for trustees elected by members, and by the governor for other trustees, for the unexpired portion of the term in which the vacancy occurs.

Sec. 7. Minnesota Statutes 1984, section 353.03, subdivision 2, is amended to read:

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Subd. 2. **NO COMPENSATION EXPENSES.** The members of the board of trustees and members of any authorized committee of said retirement association shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties. Members of the board of trustees shall suffer no loss of compensation from their a public employer by reason of service on or for the board or on any authorized committee thereof.

Sec. 8. Minnesota Statutes 1984, section 353.03, subdivision 3, is amended to read:

Subd. 3. **OFFICERS; EMPLOYEES; BYLAWS DUTIES AND POWERS OF THE BOARD.** (a) The board shall elect a chairman president and vice-chairman, and shall appoint an executive director and other employees and may adopt bylaws, and procure other services as it may reasonably deem necessary and fix their compensation subject to subdivision 2 hereof vice-president. The board shall approve the staffing complement necessary to administer the fund. The cost of administering this chapter must be paid by the fund.

(b) The board shall adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure. It shall adopt, alter, and enforce reasonable rules consistent with the laws of the state for the administration and management of the fund, for the payment and collection of payments from members, and for the payment of withdrawals and benefits. It shall pass upon and allow or disallow all applications for membership in the fund and shall allow or disallow claims for withdrawals, pensions, or benefits payable from the fund. It shall adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary, with interest set at the rate specified in section 356.215, subdivision 4, clause (4). It shall provide for the payment out of the fund of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed. The board shall approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a.

(c) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit.

(d) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program

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beyond the amount necessary to reimburse the association for costs incurred in administering the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

(e) The board shall establish procedures governing reimbursement of expenses to board members. These procedures shall define the types of activities and expenses that qualify for reimbursement, shall provide that all out-of-state travel must be authorized by the board, and shall provide for independent verification of claims for expense reimbursement. The procedures must comply with applicable rules and policies of the department of finance, the department of administration, and the department of employee relations.

Sec. 9. Minnesota Statutes 1984, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. **DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR.** (a) QUALIFICATIONS APPOINTMENT. The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.081, subdivision 1.

(b) DUTIES. The management of the association is vested in the executive director who shall be the executive and administrative head of the association. He shall act as adviser to the board on all matters pertaining to the association. He shall also act as the secretary of the board. It is the duty of The executive director and he has the power to shall:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this chapter;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) Designate an assistant director, with the approval of the board, who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said this chapter, and with the approval of the board fix their compensation who are subject to chapters 43A and 179A in the same manner as are executive branch employees;

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(5) Organize the work of the association as he deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe;

(6) With the approval of the board, contract for actuarial services, professional management services, and consulting services as ~~may be necessary and fix the compensation therefor~~ to fulfill the purposes of this chapter. ~~Such All contracts shall not be are~~ subject to the ~~competitive bidding procedure prescribed by chapter 16 16B~~. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

(7) With the approval of the board provide inservice training for all employees of the association;

(8) Make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in this chapter;

(9) Determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of ~~said~~ this chapter;

(10) Pay annuities, ~~refunds~~ refunds, survivor benefits, salaries and all necessary operating expenses of the association;

(11) Prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by chapter 356;

(12) Prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner; and

(13) With the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 10. Minnesota Statutes 1984, section 353.03, subdivision 5, is amended to read:

Subd. 5. **APPLICATION OF LAWS.** Laws applicable to state agencies and agencies with statewide jurisdiction shall ~~not be construed to~~ apply to the

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association unless such laws make specific reference to this subdivision; provided, however, the applicable provisions of chapters 355 and 356 shall apply to the association.

Sec. 11. TERMS ENDED.

Notwithstanding any other law to the contrary, the terms of all people who are members of the public employees retirement association board prior to the effective date of this section, whether they were elected or designated, end on the effective date of this section. Incumbent members, including those elected in January 1985, do not hold over and cease to have any authority to carry out the decisions of the board unless reappointed or reelected to the board. If individuals elected in January 1985 have not become members of the board by the effective date of this section, they shall not take office. In addition, all committees established by the board are abolished on the effective date of this section.

Sec. 12. TRANSITION.

Subdivision 1. APPOINTMENTS. Within 30 days after the effective date of this act, the governor shall appoint the five trustees specified in Minnesota Statutes, section 353.03, subdivision 1. In addition, and notwithstanding any provision of section 353.03, subdivision 1, the governor shall appoint three trustees who are public employees and members of the association. The term of one trustee who is a public employee and member of the association and who is appointed under this subdivision ends January 31, 1986. The terms of the other two trustees who are public employees and members of the association and who are appointed under this subdivision end January 31, 1987. In making those appointments, the governor shall designate the trustee whose term ends in 1986 and the trustees whose terms end in 1987. Minnesota Statutes, section 15.0597 does not govern appointments made under this subdivision.

Subd. 2. INTERIM DIRECTOR. The acting interim director of the association, actively serving in that position on the effective date of this section, from that date until a new board has taken office may exercise all powers vested in the board by Minnesota Statutes, section 353.03, subdivisions 1, 3, and 3a. Until a new executive director has been appointed by the board, the acting interim director has the powers and duties assigned to the executive director under Minnesota Statutes, section 353.03, subdivision 3a.

Subd. 3. ELECTION PROCEDURES. The board shall accept filings for one elected position on the board in November 1985 and shall conduct an election for that position in January 1986. The board shall accept filings for two elected positions on the board in November 1986 and shall conduct an election for those positions in January 1987. Thereafter, the board shall follow the election procedures described in Minnesota Statutes, section 353.03, subdivision 1, as necessary to fill the positions of elected trustees.

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Subd. 4. EMPLOYEES. Notwithstanding any provision of Minnesota Statutes, section 353.03, subdivision 3a, employees of the association are not subject to Minnesota Statutes, chapters 43A and 179A until July 1, 1985.

Sec. 13. CURRENT EMPLOYEES.

Employees who hold or are on leave from positions of the association on July 1, 1985, are appointed to the civil service of the state without competitive or qualifying examination. The commissioner of employee relations shall place the employees in the proper classifications in the classified service, except for those holding or on leave from unclassified positions listed in Minnesota Statutes, section 353.03, subdivision 3a, who are to be placed in the proper classifications in the unclassified service. Each employee is appointed at no loss in salary or accrued vacation benefits, but no increase in salary until the employee's salary comes within the range for the employee's class and no additional accrual of vacation benefits until the employee's total accrued vacation benefits falls below the maximum permitted by the state for the employee's position. An employee so appointed shall begin on July 1, 1985, to serve a probationary period not to exceed six months, which the executive director may terminate earlier. Employees who retire by June 30, 1985, are entitled to the cash value of their accrued sick leave under the formula in use by the association the day before the day of final enactment of this act. The association shall provide health insurance for employees who are retired on the day of final enactment of this act and employees who retire or qualify for retirement by June 30, 1985. The health insurance provided under this section is subject to any change in plan design or coverage that occurs through collective bargaining or implementation of a plan established under Minnesota Statutes, section 43A.18 for employees in positions equivalent to that from which the insured employee retired. Coverages must be coordinated with relevant health insurance benefits provided through the federal medicare program. Notwithstanding other law to the contrary, the commissioners of employee relations and finance may adjust reporting of hours worked by association employees after July 1, 1985, as needed to facilitate the transition to the state's biweekly payroll system.

Sec. 14. SEVERABILITY.

The provisions of this act are severable. If any provision is found to be void, the remaining provisions shall remain valid.

Sec. 15. EFFECTIVE DATE.

Sections 1, 2, 5 to 12, and 14 are effective the day following final enactment. Sections 3, 4, and 13 are effective July 1, 1985.

Approved April 10, 1985

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