

**SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION**

**S.F. No. 4319**

(SENATE AUTHORS: PAPPAS)

DATE  
02/29/2024

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OFFICIAL STATUS  
Introduction and first reading  
Referred to State and Local Government and Veterans

1.1 A bill for an act  
1.2 relating to retirement; Minnesota Secure Choice Retirement Program; modifying  
1.3 requirements applicable to the board of directors; authorizing the appointment of  
1.4 an interim executive director; making technical corrections; amending Minnesota  
1.5 Statutes 2023 Supplement, section 187.08, subdivisions 1, 7, 8; Laws 2023, chapter  
1.6 46, section 11.

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

1.8 Section 1. Minnesota Statutes 2023 Supplement, section 187.08, subdivision 1, is amended  
1.9 to read:

1.10 Subdivision 1. **Membership.** The policy-making function of the program is vested in a  
1.11 board of directors consisting of seven members as follows:

1.12 (1) the executive director of the Minnesota State Retirement System or the executive  
1.13 director's designee;

1.14 (2) the executive director of the State Board of Investment or the executive director's  
1.15 designee;

1.16 (3) three members chosen by the Legislative Commission on Pensions and Retirement,  
1.17 one from each of the following experience categories:

1.18 (i) executive or operations manager with substantial experience in record keeping 401(k)  
1.19 plans;

1.20 (ii) executive or operations manager with substantial experience in individual retirement  
1.21 accounts; and

2.1 (iii) executive or other professional with substantial experience in retirement plan  
2.2 investments;

2.3 (4) a human resources or retirement benefits executive from a private company with  
2.4 substantial experience in administering the company's 401(k) plan, appointed by the governor;  
2.5 and

2.6 (5) a small business owner, a small business executive, or a nonprofit executive appointed  
2.7 by the governor.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 2. Minnesota Statutes 2023 Supplement, section 187.08, subdivision 7, is amended  
2.10 to read:

2.11 Subd. 7. **Executive director; staff.** (a) The board must appoint an executive director,  
2.12 determine the duties of the executive director, and set the compensation of the executive  
2.13 director. The board may appoint an interim executive director to serve as executive director  
2.14 during any period that the executive director position is vacant.

2.15 (b) The board may ~~also~~ hire staff as necessary to support the board and the executive  
2.16 director or interim executive director in performing ~~its~~ their duties or the board may authorize  
2.17 the executive director or interim executive director to hire staff.

2.18 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2024.

2.19 Sec. 3. Minnesota Statutes 2023 Supplement, section 187.08, subdivision 8, is amended  
2.20 to read:

2.21 Subd. 8. **Duties.** In addition to the duties set forth elsewhere in this chapter, the board  
2.22 has the following duties:

2.23 (1) to establish secure processes for enrolling covered employees in the program and  
2.24 for transmitting employee ~~and employer~~ contributions to accounts in the trust;

2.25 (2) to prepare a budget and establish procedures for the payment of costs of administering  
2.26 and operating the program;

2.27 (3) to lease or otherwise procure equipment necessary to administer the program;

2.28 (4) to procure insurance in connection with the property of the program and the activities  
2.29 of the board, executive director, and other staff;

2.30 (5) to determine the following:

3.1 (i) any criteria for a covered employee other than employment with a covered employer  
3.2 under section 187.03, subdivision 5;

3.3 (ii) contribution rates and an escalation schedule under section 187.05, subdivision 4;

3.4 (iii) withdrawal and distribution options under section 187.05, subdivision 6; and

3.5 (iv) the default investment fund under section 187.06, subdivision 5;

3.6 (6) to keep annual administrative fees, costs, and expenses as low as possible:

3.7 (i) except that any administrative fee assessed against the accounts of covered employees  
3.8 may not exceed a reasonable amount relative to the fees charged by auto-IRA or defined  
3.9 contribution programs of similar size in the state of Minnesota or another state; and

3.10 (ii) the fee may be asset-based, flat fee, or a hybrid combination of asset-based and flat  
3.11 fee;

3.12 (7) to determine the eligibility of an employer, employee, or other individual to participate  
3.13 in the program and review and decide claims for benefits and make factual determinations;

3.14 (8) to prepare information regarding the program that is clear and concise for  
3.15 dissemination to all covered employees and includes the following:

3.16 (i) the benefits and risks associated with participating in the program;

3.17 (ii) procedures for enrolling in the program and opting out of the program, electing a  
3.18 different or zero percent employee contribution rate, making investment elections, applying  
3.19 for a distribution of employee accounts, and making a claim for benefits;

3.20 (iii) the federal and state income tax consequences of participating in the program, which  
3.21 may consist of or include the disclosure statement required to be distributed by retirement  
3.22 plan trustees or custodians under the Internal Revenue Code and the Treasury Regulations  
3.23 thereunder;

3.24 (iv) how to obtain additional information on the program; and

3.25 (v) disclaimers of covered employer and state responsibility, including the following  
3.26 statements:

3.27 (A) covered employees seeking financial, investment, or tax advice should contact their  
3.28 own advisors;

3.29 (B) neither a covered employer nor the state of Minnesota are liable for decisions covered  
3.30 employees make regarding their account in the program;

4.1 (C) neither a covered employer nor the state of Minnesota guarantees the accounts in  
4.2 the program or any particular investment rate of return; and

4.3 (D) neither a covered employer nor the state of Minnesota monitors or has an obligation  
4.4 to monitor any covered employee's eligibility under the Internal Revenue Code to make  
4.5 contributions to an account in the program, or whether the covered employee's contributions  
4.6 to an account in the program exceed the maximum permissible contribution under the  
4.7 Internal Revenue Code;

4.8 (9) to publish an annual financial report, prepared according to generally accepted  
4.9 accounting principles, on the operations of the program, which must include but not be  
4.10 limited to costs attributable to the use of outside consultants, independent contractors, and  
4.11 other persons who are not state employees and deliver the report to the chairs and ranking  
4.12 minority members of the legislative committees with jurisdiction over jobs and economic  
4.13 development and state government finance, the executive directors of the State Board of  
4.14 Investment and the Legislative Commission on Pensions and Retirement, and the Legislative  
4.15 Reference Library;

4.16 (10) to publish an annual report regarding plan outcomes, progress toward savings goals  
4.17 established by the board, statistics on the number of participants, participating employers,  
4.18 and covered employees who have opted out of participation, plan expenses, estimated impact  
4.19 of the program on social safety net programs, and penalties and violations, and disciplinary  
4.20 actions for enforcement, and deliver the report to the chairs and ranking minority members  
4.21 of the legislative committees with jurisdiction over jobs and economic development and  
4.22 state government finance, the executive directors of the State Board of Investment and the  
4.23 Legislative Commission on Pensions and Retirement, and the Legislative Reference Library;

4.24 (11) to file all reports required under the Internal Revenue Code or chapter 290;

4.25 (12) to, at the board's discretion, seek and accept gifts, grants, and donations to be used  
4.26 for the program, unless such gifts, grants, or donations would result in a conflict of interest  
4.27 relating to the solicitation of service provider for program administration, and deposit such  
4.28 gifts, grants, or donations in the Secure Choice administrative fund;

4.29 (13) to, at the board's discretion, seek and accept appropriations from the state or loans  
4.30 from the state or any agency of the state;

4.31 (14) to assess the feasibility of partnering with another state or a governmental subdivision  
4.32 of another state to administer the program through shared administrative resources and, if  
4.33 determined beneficial, enter into contracts, agreements, memoranda of understanding, or  
4.34 other arrangements with any other state or an agency or a subdivision of any other state to

5.1 administer, operate, or manage any part of the program, which may include combining  
5.2 resources, investments, or administrative functions;

5.3 (15) to hire, retain, and terminate third-party service providers as the board deems  
5.4 necessary or desirable for the program, including but not limited to the trustees, consultants,  
5.5 investment managers or advisors, custodians, insurance companies, recordkeepers,  
5.6 administrators, consultants, actuaries, legal counsel, auditors, and other professionals,  
5.7 provided that each service provider is authorized to do business in the state;

5.8 (16) to interpret the program's governing documents and this chapter and make all other  
5.9 decisions necessary to administer the program;

5.10 (17) to conduct comprehensive employer and worker education and outreach regarding  
5.11 the program that reflect the cultures and languages of the state's diverse workforce population,  
5.12 which may, in the board's discretion, include collaboration with state and local government  
5.13 agencies, community-based and nonprofit organizations, foundations, vendors, and other  
5.14 entities deemed appropriate to develop and secure ongoing resources; and

5.15 (18) to prepare notices for delivery to covered employees regarding the escalation  
5.16 schedule and to each covered employee before the covered employee is subject to an  
5.17 automatic contribution increase.

5.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.19 Sec. 4. Laws 2023, chapter 46, section 11, is amended to read:

5.20 Sec. 11. **BOARD SUPPORT UNTIL APPOINTMENT OF EXECUTIVE DIRECTOR.**

5.21 With the assistance of the Legislative Coordinating Commission, the executive director  
5.22 of the Legislative Commission on Pensions and Retirement must:

5.23 ~~(1)~~ provide notice to members of the board regarding the first meeting of the board and  
5.24 work with the member designated under section 10, subdivision 2, to determine the agenda  
5.25 and provide meeting support; and

5.26 ~~(2) serve as the interim executive director to~~ assist the board until the board appoints an  
5.27 interim executive director or completes the search, recruitment, and interview process and  
5.28 appoints the executive director under Minnesota Statutes, section 187.08, subdivision 8.

5.29 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2024.