

CHAPTER 249—H.F.No. 2244

An act relating to the permanent school fund; changing the Permanent School Fund Advisory Committee into a legislative commission; providing for a director for school trust lands; amending Minnesota Statutes 2010, sections 15A.0815, subdivision 3; 16A.06, subdivision 11; 16A.125, subdivision 5; 84.027, subdivision 18; 92.45; 94.342, subdivision 5; 127A.30; proposing coding for new law in Minnesota Statutes, chapter 127A.

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

Section 1. Minnesota Statutes 2010, section 15A.0815, subdivision 3, is amended to read:

Subd. 3. **Group II salary limits.** The salaries for positions in this subdivision may not exceed 85 percent of the salary of the governor:

- Executive director of Gambling Control Board;
- Commissioner, Iron Range Resources and Rehabilitation Board;
- Commissioner, Bureau of Mediation Services;
- Ombudsman for Mental Health and Developmental Disabilities;
- Chair, Metropolitan Council;
- School trust lands director;
- Executive director of pari-mutuel racing; and
- Commissioner, Public Utilities Commission.

Sec. 2. Minnesota Statutes 2010, section 16A.06, subdivision 11, is amended to read:

Subd. 11. **Permanent school fund reporting.** The commissioner shall annually report to the Legislative Permanent School Fund ~~Advisory Committee~~ Commission, and the legislature the amount of the permanent school fund transfer and information about the investment of the permanent school fund provided by the State Board of Investment. The State Board of Investment shall provide information about how they maximized the long-term economic return of the permanent school fund.

Sec. 3. Minnesota Statutes 2010, section 16A.125, subdivision 5, is amended to read:

Subd. 5. **Forest trust lands.** (a) The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the Constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

(b) The commissioner of management and budget shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

(c) After a fiscal year, the commissioner of management and budget shall certify the ~~total~~ costs incurred for forestry during that year under appropriations for the ~~protection~~, improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands. The certificate must specify the trust funds interested in the lands. After presentation to the Legislative Permanent School Fund Commission, the commissioner of natural resources shall supply the commissioner of management and budget with the information needed for the certificate. The certificate shall include an analysis that compares costs certified under this section with costs incurred on other public and private lands with similar land assets.

(d) After a fiscal year, the commissioner shall distribute the receipts credited to the suspense account during that fiscal year as follows:

(1) the amount of the certified costs incurred by the state for forest management, forest improvement, and road improvement during the fiscal year shall be transferred to the forest management investment account established under section 89.039;

(2) the balance of the certified costs incurred by the state during the fiscal year shall be transferred to the general fund; and

(3) the balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Sec. 4. Minnesota Statutes 2010, section 84.027, subdivision 18, is amended to read:

Subd. 18. **Permanent school fund authority; reporting.** (a) The commissioner of natural resources has the authority and responsibility for the administration of school trust lands under sections 92.121 and 127A.31. The commissioner shall biannually report to the ~~Permanent School Fund Advisory Committee~~ Legislative Permanent School Fund Commission and the legislature on the management of the school trust lands that shows how the commissioner has and will continue to achieve the following goals:

(1) manage the school trust lands efficiently and in a manner that reflects the undivided loyalty to the beneficiaries consistent with the commissioner's fiduciary duties;

(2) reduce the management expenditures of school trust lands and maximize the revenues deposited in the permanent school trust fund;

(3) manage the sale, exchange, and commercial leasing of school trust lands, requiring returns of not less than fair market value, to maximize the revenues deposited in the permanent school trust fund and retain the value from the long-term appreciation of the school trust lands; ~~and~~

(4) manage the school trust lands to maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles;

(5) optimize school trust land revenues and maximize the value of the trust consistent with the balancing of short-term and long-term interests, so that long-term benefits are not lost in an effort to maximize short-term gains; and

(6) maintain the integrity of the trust and prevent the misapplication of its lands and its revenues.

(b) When the commissioner finds an irresolvable conflict between maximizing the long-term economic return and protecting natural resources and recreational values on school trust lands, the commissioner shall give precedence to the long-term economic return in managing school trust lands. By July 1, 2018, the permanent school fund shall be compensated for all school trust lands included under a designation or policy provision that prohibits long-term economic return. The commissioner shall submit recommendations to the appropriate legislative committees and divisions on methods of funding for the compensation required under this paragraph, including recommendations for appropriations from the general fund, nongeneral funds, and the state bond fund. Any uncompensated designation or policy provision restrictions on the long-term economic return on school trust lands remaining after July 1, 2018, shall be compiled and submitted to the Legislative Permanent School Fund Commission for review.

(c) By December 31, 2013, the report required under paragraph (a) shall provide an inventory and identification of all school trust lands that are included under a designation or policy provision that prohibits long-term economic return. The report shall include a plan to compensate the permanent school fund through the purchase or exchange of the lands or a plan to manage the school trust land to generate long-term economic return to the permanent school fund. Subsequent reports under paragraph (a) shall include a status report of the commissioner's progress in maximizing the long-term economic return on lands identified in the 2013 report.

(d) When future designations or policies by the commissioner prohibit the long-term economic return on school trust land, the conflict shall be resolved by compensating the permanent school fund through an exchange or purchase of the lands before designation or application of the policy.

Sec. 5. Minnesota Statutes 2010, section 92.45, is amended to read:

92.45 STATE LAND ON MEANDERED LAKES WITHDRAWN FROM SALE.

All state lands, excluding school trust lands, bordering on or adjacent to meandered lakes and other public waters and watercourses, with the live timber growing on them, are withdrawn from sale except as provided in this section. The commissioner of natural resources may sell the timber as otherwise provided by law for cutting and removal under conditions the commissioner prescribes. The conditions must be in accordance with approved, sustained-yield forestry practices. The commissioner must reserve the timber and impose other conditions the commissioner deems necessary to protect watersheds, wildlife habitat, shorelines, and scenic features. Within the area in Cook, Lake, and St. Louis Counties described in the Act of Congress approved July 10, 1930, (Statutes at Large, volume 46, page 1020), the timber on state lands is subject to restrictions like those now imposed by the act on federal lands.

The following land is reserved for public travel: of all land bordering on or adjacent to meandered lakes and other public waters and watercourses and withdrawn from sale, a strip two rods wide, the ordinary high-water mark being its waterside boundary, and its landside boundary a line drawn parallel to the ordinary high-water mark and two rods distant landward from it. Wherever the conformation of the shore line or conditions require, the commissioner must reserve a wider strip.

Except for sales under section 282.018, subdivision 1, when a state agency or any other unit of government requests the legislature to authorize the sale of state lands bordering on or adjacent to meandered lakes and other public waters and watercourses, the commissioner shall evaluate the lands and their public benefits and make recommendations on the proposed dispositions to the committees of the legislature with jurisdiction over natural resources. The commissioner shall include any recommendations of the commissioner for disposition of lands withdrawn from sale under this section over which the commissioner has jurisdiction. The commissioner's recommendations may include a public sale, sale to a private party, acquisition by the commissioner for public purposes, retention of a conservation easement for shoreland preservation by the commissioner under chapter 84C, or a cooperative management agreement with, or transfer to, another unit of government.

The commissioner may sell state lands bordering on or adjacent to the Mississippi River or any lakes, waters, and watercourses in its bottom lands, desired or needed by the United States government for, or in connection with, any project heretofore authorized by Congress, to improve navigation in the Mississippi River at public sale according to law, as in other cases, upon application by an authorized United States official. The application must describe the land and include a map showing its location with reference to adjoining properties.

Sec. 6. Minnesota Statutes 2010, section 94.342, subdivision 5, is amended to read:

Subd. 5. **Additional restrictions on school trust land.** School trust land may be exchanged with other Class A land only if the ~~Permanent School Fund Advisory Committee~~ school trust lands director is appointed as temporary trustee of the school trust land for purposes of the exchange. The ~~committee~~ Legislative Permanent School Fund Commission shall provide independent legal counsel to review ~~the~~ exchanges.

Sec. 7. Minnesota Statutes 2010, section 127A.30, is amended to read:

127A.30 LEGISLATIVE PERMANENT SCHOOL FUND ADVISORY COMMITTEE COMMISSION.

Subdivision 1. **Commission established; membership.** ~~A state~~ (a) The Legislative Permanent School Fund Advisory Committee Commission of 12 members is established to advise the Department of Natural Resources and the school trust lands director on the management of permanent school fund land, which is held in trust for the school districts of the state and to review legislation affecting permanent school fund land. ~~The advisory committee must consist~~ commission consists of the following persons ~~or their designees:~~ the chairs of the education committees of the legislature, the chairs of the legislative committees with jurisdiction over the K-12 education budget, the chairs of the legislative committees with jurisdiction over the environment and natural resources policy and budget, the chair of the senate Committee on Finance and the chair of the house of representatives Committee on Ways and Means, the commissioner of education, one superintendent from a nonmetropolitan district, one superintendent from a metropolitan area district, one person with an expertise in forestry, one person with an expertise in minerals and mining, one person with an expertise in real estate development, one person with an expertise in renewable energy, one person with an expertise in finance and land management, and one person with an expertise in natural resource conservation. ~~The school district superintendents shall be appointed by the commissioner of education. The committee members with areas of expertise in forestry, minerals and mining, real estate development,~~

~~renewable energy, finance and land management, and natural resource conservation shall be appointed by the commissioner of natural resources. Members of the legislature shall be given the opportunity to recommend candidates for vacancies on the committee to the commissioners of education and natural resources. The advisory committee must also include a nonvoting member appointed by the commissioner of natural resources. The commissioner of natural resources shall provide administrative support to the committee. The members of the committee shall serve without compensation. The members of the Permanent School Fund Advisory Committee shall elect their chair and are bound by the provisions of sections 43A.38 and 116P.09, subdivision 6.~~

(1) six members of the senate, including three majority party members appointed by the majority leader and three minority party members appointed by the minority leader; and

(2) six members of the house of representatives, including three majority party members appointed by the speaker of the house and three minority party members appointed by the minority leader.

(b) Appointed legislative members serve at the pleasure of the appointing authority and continue to serve until their successors are appointed.

(c) The first meeting of the commission shall be convened by the chair of the Legislative Coordinating Commission. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the commission. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

Subd. 2. **Duties.** ~~The advisory committee~~ commission shall review ~~the policies of the Department of Natural Resources and~~ current statutes on management of school trust fund lands at least annually and shall recommend necessary changes in statutes, policy, and implementation in order to ensure provident utilization of the permanent school fund lands. By January 15 of each year, the ~~advisory committee~~ commission shall submit a report to the legislature with recommendations for the management of school trust lands to secure long-term economic return for the permanent school fund, consistent with sections 92.121 and 127A.31. ~~The committee's~~ commission's annual report may include recommendations to:

(1) manage the school trust lands efficiently;

(2) reduce the management expenditures of school trust lands and maximize the revenues deposited in the permanent school trust fund;

(3) manage the sale, exchange, and commercial leasing of school trust lands to maximize the revenues deposited in the permanent school trust fund and retain the value from the long-term appreciation of the school trust lands; ~~and~~

(4) manage the school trust lands to maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles; and

(5) manage the asset allocation of the permanent school fund.

~~Subd. 3. **Duration.** Notwithstanding section 15.059, subdivision 5, the advisory committee is permanent and does not expire.~~

Sec. 8. [127A.351] POLICY AND PURPOSE.

(a) The purpose of sections 127A.351 to 127A.353 is to establish a school trust lands director position to recommend management policies for Minnesota's school trust lands in accordance with the provisions of the Minnesota Constitution, article XI, section 8.

(b) As trustee, the state must manage the lands and revenues generated from the lands consistent with the best interests of the trust beneficiaries as defined in the Minnesota Constitution, article XI, section 8. When it is in the best interest of the school trust lands, ecological benefits shall be taken into consideration.

(c) The trustee must be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short-term and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.

(d) Sections 127A.351 to 127A.353 shall be liberally construed to enable the school trust lands director and the commissioner of natural resources to faithfully fulfill the state's obligations to the trust beneficiaries.

Sec. 9. **[127A.352] POLICY RECOMMENDATIONS; DUTIES.**

Subdivision 1. **Recommendations.** The Legislative Permanent School Fund Commission shall recommend policies for the school trust lands director and the commissioner of natural resources that are consistent with the Minnesota Constitution, state law, and the goals established under section 84.027, subdivision 18.

Subd. 2. **Duties.** The commissioner of natural resources and the school trust lands director shall recommend to the governor and the Legislative Permanent School Fund Commission any necessary or desirable changes in statutes relating to the trust or their trust responsibilities consistent with the policies under section 127A.351.

Subd. 3. **Notice to commission and governor.** If the school trust lands director has an irreconcilable disagreement with the commissioner of natural resources pertaining to the fiduciary responsibilities consistent with the school trust lands, it is the duty of the director to report the subject of the disagreement to the Legislative Permanent School Fund Commission and the governor.

Sec. 10. **[127A.353] SCHOOL TRUST LANDS DIRECTOR.**

Subdivision 1. **Appointment.** The school trust lands director shall be appointed by the governor. The commissioner of administration shall provide office space for the director. The commissioner shall provide human resources, payroll, accounting, procurement, and other similar administrative services to the school trust lands director. The director's appointment is subject to the advice and consent of the senate.

Subd. 2. **Qualifications.** The governor shall select the school trust lands director on the basis of outstanding professional qualifications and knowledge of finance, business practices, minerals, forest and real estate management, and the fiduciary responsibilities of a trustee to the beneficiaries of a trust. The school trust lands director serves in the unclassified service for a term of four years. The first term shall end on December 31, 2016. The governor may remove the school trust lands director for cause. If a director resigns or is removed for cause, the governor shall appoint a director for the remainder of the term.

Subd. 3. **Compensation.** Compensation of the school trust lands director shall be established under chapter 15A.

Subd. 4. **Duties; powers.** (a) The school trust lands director shall:

(1) take an oath of office before assuming any duties as the director;
(2) evaluate the school trust land asset position;
(3) determine the estimated current and potential market value of school trust lands;
(4) advise the governor, Executive Council, commissioner of natural resources, and the Legislative Permanent School Fund Commission on the management of school trust lands, including:

(i) Department of Natural Resources school trust land management plans;

(ii) leases of school trust lands;

(iii) royalty agreements on school trust lands;

(iv) land sales and exchanges;

(v) cost certification; and

(vi) revenue generating options;

(5) propose to the Legislative Permanent School Fund Commission legislative changes that will improve the asset allocation of the school trust lands;

(6) develop a ten-year strategic plan and a 25-year framework for management of school trust lands, in conjunction with the commissioner of natural resources, that is updated every five years and implemented by the commissioner, with goals to:

(i) retain core real estate assets;

(ii) increase the value of the real estate assets and the cash flow from those assets;

(iii) rebalance the portfolio in assets with high performance potential and the strategic disposal of selected assets;

(iv) establish priorities for management actions; and

(v) balance revenue enhancement and resource stewardship;

(7) submit to the Legislative Permanent School Fund Commission for review an annual budget and management plan for the director; and

(8) keep the beneficiaries, governor, legislature, and the public informed about the work of the director by reporting to the Legislative Permanent School Fund Commission in a public meeting at least once during each calendar quarter.

(b) In carrying out the duties under paragraph (a), the school trust lands director shall have the authority to:

(1) direct and control money appropriated to the director;

(2) establish job descriptions and employ up to five employees in the unclassified service, within the limitations of money appropriated to the director;

(3) enter into interdepartmental agreements with any other state agency; and

(4) submit recommendations on strategies for school trust land leases, sales, or exchanges to the commissioner of natural resources and the Legislative Permanent School Fund Commission.

Sec. 11. **COSTS OF SCHOOL TRUST LANDS DIRECTOR AND LEGISLATIVE PERMANENT SCHOOL FUND COMMISSION.**

(a) The costs of the school trust lands director, including the costs of hiring staff, and the Legislative Permanent School Fund Commission for fiscal years 2014 and 2015 shall be from the state forest development account under Minnesota Statutes, section 16A.125, and from the minerals management account under Minnesota Statutes, section 93.2236, as appropriated by the legislature.

(b) The school trust lands director and the Legislative Permanent School Fund Commission shall submit to the 2014 legislature a proposal to fund the operational costs of the Legislative Permanent School Fund Commission and school trust lands director and staff with a cost certification method using revenues generated by the permanent school fund lands.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 10 are effective July 1, 2013.

Presented to the governor April 25, 2012

Signed by the governor April 28, 2012, 9:56 p.m.