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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4018

03/07/2022 Authored by Nelson, M., The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to the State Board of Investment; making administrative and technical
1.3 changes clarifying the classification of professional employees; amending
1.4 Minnesota Statutes 2020, sections 11A.04; 11A.07, subdivision 4, by adding
1.5 subdivisions; 43A.18, subdivision 3b; 179A.10, subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2020, section 11A.04, is amended to read:

1.8 11A.04 DUTIES AND POWERS; APPROPRIATION.

1.9 The state board shall:

1.10 (1) Act as trustees for each fund for which it invests or manages money in accordance
1.11 with the standard of care set forth in section 11A.09 if state assets are involved and in
1.12 accordance with chapter 356A if pension assets are involved.

1.13 (2) Formulate policies and procedures deemed necessary and appropriate to carry out
1.14 its functions. Procedures adopted by the board must allow fund beneficiaries and members
1.15 of the public to become informed of proposed board actions. Procedures and policies of the
1.16 board are not subject to the Administrative Procedure Act.

1.17 (3) Employ an executive director as provided in section 11A.07.

1.18 (4) Employ investment advisors and consultants as it deems necessary.

1.19 (5) Prescribe policies concerning personal investments of all employees of the board to
1.20 prevent conflicts of interest.

1.21 (6) Maintain a record of its proceedings.

2.1 (7) As it deems necessary, establish advisory committees subject to section 15.059 to
2.2 assist the board in carrying out its duties.

2.3 (8) Not permit state funds to be used for the underwriting or direct purchase of municipal
2.4 securities from the issuer or the issuer's agent.

2.5 (9) Direct the commissioner of management and budget to sell property other than money
2.6 that has escheated to the state when the board determines that sale of the property is in the
2.7 best interest of the state. Escheated property must be sold to the highest bidder in the manner
2.8 and upon terms and conditions prescribed by the board.

2.9 (10) Undertake any other activities necessary to implement the duties and powers set
2.10 forth in this section.

2.11 (11) Establish a formula or formulas to measure management performance and return
2.12 on investment. Public pension funds in the state shall utilize the formula or formulas
2.13 developed by the state board.

2.14 (12) Except as otherwise provided in article XI, section 8, of the Constitution of the state
2.15 of Minnesota, employ, at its discretion, qualified private firms to invest and manage the
2.16 assets of funds over which the state board has investment management responsibility. There
2.17 is annually appropriated to the state board, from the assets of the funds for which the state
2.18 board utilizes a private investment manager, sums sufficient to pay the costs of employing
2.19 private firms. Each year, by January 15, the board shall report to the governor and legislature
2.20 on the cost and the investment performance of each investment manager employed by the
2.21 board.

2.22 (13) Adopt an investment policy statement that includes investment objectives, asset
2.23 allocation, and the investment management structure for the retirement fund assets under
2.24 its control. The statement may be revised at the discretion of the state board. The state board
2.25 shall seek the advice of the council regarding its investment policy statement. Adoption of
2.26 the statement is not subject to chapter 14.

2.27 (14) Adopt a compensation plan setting the terms and conditions of employment for
2.28 unclassified employees of the state board ~~employees who are not covered by a collective~~
2.29 ~~bargaining agreement~~ pursuant to section 43A.18, subdivision 3b.

2.30 (15) Contract, as necessary, with the board of trustees of the Minnesota State Universities
2.31 and Colleges System for the provision of investment review and selection services under
2.32 section 354B.25, subdivision 3, and arrange for the receipt of payment for those services.

3.1 There is annually appropriated to the state board, from the assets of the funds for which
 3.2 the state board provides investment services, sums sufficient to pay the costs of all necessary
 3.3 expenses for the administration of the board. These sums will be deposited in the State
 3.4 Board of Investment operating account, which must be established by the commissioner of
 3.5 management and budget.

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

3.7 Sec. 2. Minnesota Statutes 2020, section 11A.07, subdivision 4, is amended to read:

3.8 Subd. 4. **Duties and powers.** The director, at the direction of the state board, shall:

3.9 (1) plan, direct, coordinate, and execute administrative and investment functions in
 3.10 conformity with the policies and directives of the state board and the requirements of this
 3.11 chapter and of chapter 356A;

3.12 (2) prepare and submit biennial and annual budgets to the board and with the approval
 3.13 of the board submit the budgets to the Department of Management and Budget;

3.14 (3) employ professional and clerical staff as necessary. ~~Employees whose primary~~
 3.15 ~~responsibility is to invest or manage money or employees who hold positions designated~~
 3.16 ~~as unclassified under section 43A.08, subdivision 1a, are in the unclassified service of the~~
 3.17 ~~state. Other employees are in the classified service. Unclassified employees who are not~~
 3.18 ~~covered by a collective bargaining agreement are employed under the terms and conditions~~
 3.19 ~~of the compensation plan approved under section 43A.18, subdivision 3b;~~

3.20 (4) report to the state board on all operations under the director's control and supervision;

3.21 (5) maintain accurate and complete records of securities transactions and official
 3.22 activities;

3.23 (6) establish a policy, which is subject to state board approval, relating to the purchase
 3.24 and sale of securities on the basis of competitive offerings or bids. ~~The policy is subject to~~
 3.25 ~~board approval;~~

3.26 (7) cause securities acquired to be kept in the custody of the commissioner of management
 3.27 and budget or other depositories consistent with chapter 356A, as the state board deems
 3.28 appropriate;

3.29 (8) prepare and file with the director of the Legislative Reference Library, by December
 3.30 31 of each year, a report summarizing the activities of the state board, the council, and the
 3.31 director during the preceding fiscal year. ~~The report must be prepared so as to provide the~~
 3.32 ~~legislature and the people of the state with a clear, comprehensive summary of the portfolio~~

4.1 ~~composition, the transactions, the total annual rate of return, and the yield to the state treasury~~
 4.2 ~~and to each of the funds whose assets are invested by the state board, and the recipients of~~
 4.3 ~~business placed or commissions allocated among the various commercial banks, investment~~
 4.4 ~~bankers, money managers, and brokerage organizations and the amount of these commissions~~
 4.5 ~~or other fees. The report must include an executive summary;~~

4.6 (9) include on the state board's website its annual report and an executive summary of
 4.7 its quarterly reports;

4.8 (10) require state officials from any department or agency to produce and provide access
 4.9 to any financial documents the state board deems necessary in the conduct of its investment
 4.10 activities;

4.11 (11) receive and expend legislative appropriations; and

4.12 (12) undertake any other activities necessary to implement the duties and powers set
 4.13 forth in this subdivision consistent with chapter 356A.

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

4.15 Sec. 3. Minnesota Statutes 2020, section 11A.07, is amended by adding a subdivision to
 4.16 read:

4.17 **Subd. 4a. Classification of state board employees.** (a) Employees of the state board
 4.18 who are in the unclassified service of the state are employed under the terms and conditions
 4.19 of the compensation plan approved under section 43A.18, subdivision 3b. The following
 4.20 state board employees are in the unclassified service of the state:

4.21 (1) professional employees who, in the determination of the director, are primarily
 4.22 responsible for managing or administering the investment portfolio, including but not limited
 4.23 to investment diligence and analysis, investment risk mitigation, and implementing
 4.24 investment strategy; and

4.25 (2) employees who hold positions designated as unclassified under section 43A.08,
 4.26 subdivision 1a.

4.27 (b) Employees of the state board who are not in the unclassified service under paragraph
 4.28 (a) are in the classified service of the state.

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

5.1 Sec. 4. Minnesota Statutes 2020, section 11A.07, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 4b. **Annual report.** The report required under subdivision 4, clause (8), must
5.4 include an executive summary and must be prepared so as to provide the legislature and the
5.5 people of the state with:

5.6 (1) a clear, comprehensive summary of the portfolio composition, the transactions, the
5.7 total annual rate of return, and the yield to the state treasury and to each of the funds with
5.8 assets invested by the state board; and

5.9 (2) the recipients of business placed or commissions allocated among the various
5.10 commercial banks, investment bankers, money managers, and brokerage organizations and
5.11 the amount of these commissions or other fees.

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

5.13 Sec. 5. Minnesota Statutes 2020, section 43A.18, subdivision 3b, is amended to read:

5.14 Subd. 3b. **State Board of Investment plan.** Total compensation for unclassified positions
5.15 ~~not covered by a collective bargaining agreement~~ under section 11A.04, clause (14), in the
5.16 State Board of Investment must be determined by the State Board of Investment. Before
5.17 submitting a compensation plan to the legislature and the Legislative Coordinating
5.18 Commission, the State Board of Investment must submit the plan to the commissioner of
5.19 management and budget for review and comment. The commissioner must complete the
5.20 review within 14 days of its receipt. Compensation plans established under this subdivision
5.21 must be approved by the legislature and the Legislative Coordinating Commission under
5.22 section 3.855, before becoming effective.

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

5.24 Sec. 6. Minnesota Statutes 2020, section 179A.10, subdivision 1, is amended to read:

5.25 Subdivision 1. **Exclusions.** The commissioner of management and budget shall meet
5.26 and negotiate with the exclusive representative of each of the units specified in this section,
5.27 except as provided in section 43A.06, subdivision 1, paragraph (c). The units provided in
5.28 this section are the only appropriate units for executive branch state employees. The following
5.29 employees shall be excluded from any appropriate unit:

5.30 (1) the positions and classes of positions in the classified and unclassified services defined
5.31 as managerial by the commissioner of management and budget in accordance with section
5.32 43A.18, subdivision 3, and so designated in the official state compensation schedules;

6.1 (2) unclassified positions in the Minnesota State Colleges and Universities defined as
6.2 managerial by the Board of Trustees;

6.3 (3) positions of all unclassified employees appointed by a constitutional officer;

6.4 (4) positions in the Bureau of Mediation Services and the Public Employment Relations
6.5 Board;

6.6 (5) positions of employees whose classification is pilot or chief pilot;

6.7 (6) administrative law judge and compensation judge positions in the Office of
6.8 Administrative Hearings; ~~and~~

6.9 (7) positions of all confidential employees; and

6.10 (8) unclassified positions in the State Board of Investment.

6.11 The governor may upon the unanimous written request of exclusive representatives of
6.12 units and the commissioner direct that negotiations be conducted for one or more units in
6.13 a common proceeding or that supplemental negotiations be conducted for portions of a unit
6.14 or units defined on the basis of appointing authority or geography.

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