

## CHAPTER 356A

## PUBLIC PENSION FIDUCIARY RESPONSIBILITY

356A.06 Investments; additional duties.

**356A.06 INVESTMENTS; ADDITIONAL DUTIES.***[For text of subds 1 to 6, see M.S.2004]*

Subd. 7. **Expanded list of authorized investment securities.** (a) **Authority.** Except to the extent otherwise authorized by law or bylaws, a covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in accordance with this subdivision.

(b) **Securities generally.** The covered pension plan has the authority to purchase, sell, lend, or exchange the securities specified in paragraphs (c) to (h), including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned as units in commingled trusts that own the securities described in paragraphs (c) to (h).

(c) **Government obligations.** The covered pension plan may invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness provided the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph include guaranteed or insured issues of (1) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (2) Canada and its provinces, provided the principal and interest is payable in United States dollars; (3) the states and their municipalities, political subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars.

(d) **Corporate obligations.** The covered pension plan may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(1) the principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof must be payable in United States dollars; and

(2) obligations must be rated among the top four quality categories by a nationally recognized rating agency.

(e) **Other obligations.** (1) The covered pension plan may invest funds in bankers acceptances, certificates of deposit; deposit notes, commercial paper, mortgage participation certificates and pools, asset backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(i) bankers acceptances and deposit notes of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(ii) certificates of deposit are limited to those issued by (A) United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by

federal agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(iii) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

(iv) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(v) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(vi) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts are limited to those fully insured by federal agencies; and

(viii) asset backed securities must be rated in the top four quality categories by a nationally recognized rating agency.

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), the covered pension plan may purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

(f) **Corporate stocks.** The covered pension plan may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, any corporation organized under the laws of the Dominion of Canada or its provinces, or any corporation listed on an exchange regulated by an agency of the United States or of the Canadian national government, if they conform to the following provisions:

(1) the aggregate value of corporate stock investments, as adjusted for realized profits and losses, must not exceed 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to paragraph (h);

(2) investments must not exceed five percent of the total outstanding shares of any one corporation.

(g) **Exchange traded funds.** The covered pension plan may invest funds in exchange traded funds, subject to the maximums, the requirements, and the limitations set forth in paragraph (d), (e), (f), or (h), whichever applies.

(h) **Other investments.** (1) In addition to the investments authorized in paragraphs (b) to (g), and subject to the provisions in clause (2), the covered pension plan may invest funds in:

- (i) venture capital investment businesses through participation in limited partnerships and corporations;
- (ii) real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;
- (iii) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940;
- (iv) resource investments through limited partnerships, private placements, and corporations; and
- (v) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

- (i) the aggregate value of all investments made according to clause (1) may not exceed 35 percent of the market value of the fund for which the covered pension plan is investing;
- (ii) there must be at least four unrelated owners of the investment other than the covered pension plan for investments made under clause (1), item (i), (ii), (iii), or (iv);
- (iii) covered pension plan participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and
- (iv) covered pension plan participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The covered pension plan may not engage in any activity as a limited partner which creates general liability.

*[For text of subds 7a to 10, see M.S.2004]*

**History:** *1Sp2005 c 8 art 9 s 9; art 10 s 66*