

CHAPTER 11A

INVESTMENT OF STATE AND PENSION ASSETS

11A.07	EXECUTIVE DIRECTOR.	11A.23	INVESTMENT OF RETIREMENT FUNDS AND PLANS.
11A.08	INVESTMENT ADVISORY COUNCIL.	11A.244	INVESTMENT IN IRAN.
11A.17	MINNESOTA SUPPLEMENTAL INVESTMENT FUND.		

11A.041 [Repealed, 2009 c 169 art 1 s 77]

11A.07 EXECUTIVE DIRECTOR.

[For text of subs 1 and 2, see M.S.2008]

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

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

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

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

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

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

(6) establish a policy relating to the purchase and sale of securities on the basis of competitive offerings or bids. The policy is subject to board approval;

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

(8) prepare and file with the director of the Legislative Reference Library, by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report must be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, money managers, and brokerage organizations and the amount of these commissions or other fees. The report must contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles. The report must include an executive summary;

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

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

(11) receive and expend legislative appropriations; and

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

[For text of subd 5, see M.S.2008]

History: 2009 c 101 art 2 s 19,109

11A.08 INVESTMENT ADVISORY COUNCIL.

Subdivision 1. **Membership.** There is created an Investment Advisory Council consisting of 17 members. Ten of these members must be experienced in general investment matters. The state board must appoint the ten members. The other seven members are: the commissioner of management and budget; the executive director of the Minnesota State Retirement System; the executive director of the Public Employees Retirement Association; the executive director of the Teachers Retirement Association; a retiree currently receiving benefits from a statewide retirement plan; and two public employees who are active members of funds whose assets are invested by the state board. The governor must appoint the retiree and the public employees for four-year terms.

[For text of subds 2 to 6, see M.S.2008]

History: 2009 c 169 art 1 s 6,109

11A.17 MINNESOTA SUPPLEMENTAL INVESTMENT FUND.

Subdivision 1. **Purpose; accounts; continuation.** (a) The purpose of the supplemental investment fund is to provide an investment vehicle for the assets of various public retirement plans and funds.

(b) The fund consists of eight investment accounts: an income share account, a growth share account, an international share account, a money market account, a fixed interest account, a bond market account, a common stock index account, and a volunteer firefighter account.

(c) The supplemental investment fund is a continuation of the supplemental retirement fund in existence on January 1, 1980.

Subd. 2. **Assets.** (a) The assets of the supplemental investment fund consist of the money certified and transmitted to the state board from the participating public retirement plans and funds and from the voluntary statewide lump-sum volunteer firefighter retirement plan under section 353G.08.

(b) With the exception of the assets of the voluntary statewide lump-sum volunteer firefighter retirement fund, the assets must be used to purchase investment shares in the investment accounts as specified by the plan or fund. The assets of the voluntary statewide lump-sum volunteer firefighter retirement fund must be invested in the volunteer firefighter account.

(c) These accounts must be valued at least on a monthly basis but may be valued more frequently as determined by the State Board of Investment.

[For text of subds 3 to 10, see M.S.2008]

Subd. 11. **Prospectus.** Annually, by July 2, the state board shall prepare and shall issue a prospectus for the supplemental investment fund with separate exhibits for each investment account. The exhibit for each account must include its investment objectives, asset allocation, and past investment performance. Upon request, the board shall provide a list of each security in the fund and show the following items, whichever are applicable:

- (1) the purchase price of the security;
- (2) the current market value of the security;

(3) the current dividend or interest rate of the security;

(4) the rating of a debt security issued by a nationally recognized rating agency if it is other than a security issued or guaranteed by the United States government.

The state board shall transmit sufficient copies of the prospectus to each public retirement plan or fund participating in the supplemental investment account to meet the plan or fund's distribution requirements. The prospectus must be filed with the director of the Legislative Reference Library as provided by section 3.195.

History: 2009 c 32 s 5; 2009 c 169 art 9 s 1,2

11A.18 [Repealed, 2009 c 169 art 1 s 77]

11A.181 [Repealed, 2009 c 169 art 1 s 77]

11A.23 INVESTMENT OF RETIREMENT FUNDS AND PLANS.

Subdivision 1. **Certification of assets not needed for immediate use.** Each executive director administering a retirement fund or plan enumerated in subdivision 4 shall, from time to time, certify to the state board for investment those portions of the assets of the retirement fund or plan which in the judgment of the executive director are not required for immediate use.

Subd. 2. **Investment.** Retirement fund assets certified to the state board under subdivision 1 must be invested by the state board subject to the provisions of section 11A.24. Retirement fund assets transferred to the combined investment fund or the supplemental investment fund must be invested by the state board as part of those funds.

[For text of subds 3 and 4, see M.S.2008]

History: 2009 c 169 art 1 s 7,8

11A.244 INVESTMENT IN IRAN.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Active business operations" means all business operations that are not inactive business operations.

(c) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

(d) "Direct holdings" means all publicly traded debt and equity securities of a company that are held directly by the State Board of Investment or held in an account or fund in which the State Board of Investment owns all shares or interests.

(e) "Government of Iran" means the government of the Islamic Republic of Iran or its instrumentalities or political subdivisions and companies owned or controlled by the Islamic Republic of Iran.

(f) "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such a purpose.

(g) "Indirect holdings" means all investments held in an account or fund, including a mutual fund, a real estate fund, a private equity fund, or a commingled fund, managed by one or more persons who are not employed by the State Board of Investment, in which the public funds own shares or interests together with other investors who are not subject to this section.

(h) "Scrutinized company" means any company engaging in scrutinized business operations.

(i) "Scrutinized business operations" means any and all active business operations that are subject or liable to sanctions under Public Law 104-172, as amended, the Iran Sanctions Act of 1996, and that involve the maintenance of a company's existing assets or investments in Iran, or the deployment of new investments to Iran that meet or exceed the \$20,000,000 threshold referred to in Public Law 104-172, as amended, the Iran Sanctions Act of 1996. "Scrutinized business operations" does not include the retail sale of gasoline and related products.

(j) "Substantial action specific to Iran" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations.

Subd. 2. Identification of scrutinized companies. (a) Within 90 days following August 1, 2009, the State Board of Investment shall make its best efforts to identify all scrutinized companies in which it has direct holdings. These efforts shall include, as appropriate:

(1) reviewing and relying, as appropriate, on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) contacting asset managers contracting with the State Board of Investment who invest in companies with business operations in Iran; and

(3) contacting other institutional investors that have divested from or engaged with companies with business operations in Iran.

(b) At the first meeting of the State Board of Investment after it has completed the requirements of paragraph (a), the State Board of Investment shall assemble a list of scrutinized companies in which it has direct holdings.

(c) The State Board of Investment shall update the scrutinized companies list each quarter based on continuing information, including but not limited to information from sources identified in paragraph (a).

Subd. 3. Engagement of scrutinized companies. The State Board of Investment shall use the following procedures with respect to companies on the scrutinized companies list:

(1) for each company newly identified in subdivision 2 with scrutinized business operations, the State Board of Investment shall, within 90 days following its assembly of the scrutinized companies list, send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the State Board of Investment. The notice shall offer the company the opportunity to clarify its scrutinized business operations and shall encourage the company to cease, within 90 days of the date of the notice, its scrutinized business operations, or to convert them to inactive business operations in order to avoid divestment by the State Board of Investment; and

(2) if, within 90 days following the State Board of Investment's first engagement with a company under clause (1), that company publicly announces its commitment to substantial action specific to Iran, that company shall be removed from the scrutinized companies list and the provisions of this section shall cease to apply to it unless it resumes active business operations in Iran.

Subd. 4. Divestment. (a) If, after 90 days following the State Board of Investment's first engagement with a company under subdivision 3, clause (1), the company continues to have scrutinized business operations, and only while the company continues to have scrutinized business operations, the State Board of Investment shall sell, redeem, divest, or withdraw all publicly traded securities of the company, according to the following schedule:

(1) at least 50 percent of the holdings in the company shall be removed from the State Board of Investment's assets under management by nine months after the company's initial appearance on the scrutinized companies list; and

(2) 100 percent of the holdings in the company shall be removed from the State Board of Investment's assets under management within 15 months after the company's initial appearance on the scrutinized companies list.

(b) If a company that ceased scrutinized business operations following engagement under subdivision 3, clause (1), resumes such operations, paragraph (a) immediately applies to the company and the State Board of Investment shall send a written notice to the company. The company shall also be immediately reintroduced onto the scrutinized companies list.

Subd. 5. Prohibition on new acquisitions. The State Board of Investment may not acquire securities of companies on the scrutinized companies list that have scrutinized business operations, except as provided in this section.

Subd. 6. Relation to federal action. If the federal government excludes a company from its present or any future federal sanctions relating to Iran, that company is exempt from the divestment requirements and the investment prohibitions in this section.

Subd. 7. Exemptions. Subdivisions 4 and 5 do not apply to any of the following:

(1) investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Iran;

(2) investments in a company that is primarily engaged in promoting health, education, or journalistic, religious, or welfare activities in Iran; and

(3) investments in a United States company that is authorized by the federal government to have active business operations in Iran.

Subd. 8. Excluded securities. Subdivisions 4 and 5 do not apply to indirect holdings in actively managed investment funds. The State Board of Investment shall submit letters to the managers of investment funds containing companies with scrutinized active business operations requesting the managers to consider removing such companies from the fund or to create a similar actively managed fund with indirect holdings that do not include the companies. If a manager creates a similar fund, the State Board of Investment shall promptly replace all applicable investments with investments in the similar fund consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds.

Subd. 9. Reporting. By January 15 of each calendar year, the State Board of Investment shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the State Board of Investment. The report must include:

(1) a copy of the most recent list of scrutinized companies;

(2) a summary of correspondence with companies engaged by the State Board of Investment under subdivision 3;

(3) a list of all investments sold, redeemed, divested, or withdrawn in compliance with subdivision 4;

(4) a list of all prohibited investments under subdivision 5; and

(5) a description of any progress made under subdivision 8.

Subd. 10. Expiration. This section ceases to be operative if either of the following apply:

(1) Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism; or

(2) the president of the United States determines and certifies that state legislation similar to this section interferes with the conduct of United States foreign policy.

Subd. 11. **Other legal obligations.** The State Board of Investment is exempt from any statutory or common law obligations that conflict with actions taken in compliance with this section, including all good faith determinations regarding companies as required by this section, including any obligations regarding the choice of asset managers, investment funds, or investments for the State Board of Investment's securities portfolios.

Subd. 12. **Severability.** The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

History: 2009 c 90 s 1