

422A.05 TRUSTEE OF FUNDS.

Subdivision 1. **Power over funds.** The members of the retirement board shall be the trustees and custodians of the several funds created by this chapter and shall have exclusive control and management of these funds, and power to invest them and to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by this chapter shall have been invested as well as the proceeds of the investments, and of the money belonging to these funds. The power to manage and invest the assets of the funds must be exercised by the retirement board solely through professional investment or property management firms that are independent of the retirement fund. No financial or property assets of the funds may be managed, serviced, or invested internally or in-house at the retirement fund, except that any investment held by a fund on February 1, 1993, that is not readily tradable on an established securities exchange may continue to be managed directly by the retirement board until the investment is converted to cash. The retirement board's functions under this section consist primarily of establishing and effectuating investment policy and structure, managing the investment process, monitoring and measuring the performance of the external independent professional investment or property management firms, retaining or terminating agreements with these firms, apportioning the assets of the funds to be managed among these firms, and making financial decisions on issues if approvals have been specifically reserved by and to the board.

Subd. 2. [Repealed, 1980 c 607 art 16 s 19]

Subd. 2a. **Fiduciary duty.** (a) In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any person charged with the responsibility of servicing assets of the funds pursuant to the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. In addition, the members of the board and the chief administrative officer shall act in a manner consistent with chapter 356A.

(b) Individuals authorized by the board to manage or invest the assets of the funds must act in a manner consistent with chapter 356A. In addition, these individuals must act in good faith and exercise that degree of judgment, skill, diligence, and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence acting in a like capacity and familiar with the activity would exercise.

Subd. 2b. **Conflicts of interest.** No member of the board may participate in the deliberations or the voting on any matter before the board which will or is likely to result in direct, measurable personal gain to the member.

Subd. 2c. **Minneapolis Employees Retirement Fund investment authority.** (a) For investments made on or after July 1, 1991, the board shall invest funds only in investments authorized by section 356A.06, subdivision 7.

(b) However, in addition to real estate investments authorized under paragraph (a), the board may also make loans to purchasers of Minnesota situs nonfarm residential real estate that is owned by the Minneapolis Employees Retirement Fund. The loans must be secured by mortgages or deeds of trust.

(c) For investments made before July 1, 1991, the board may, but is not required to, comply with paragraph (a). However, with respect to these investments, the board shall act in accordance with subdivision 2a and chapter 356A.

(d) The board may certify assets for investment by the State Board of Investment under section 11A.17. Alternatively or in addition, the board may certify assets for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

Subd. 2d. **Account transfers.** Notwithstanding any law to the contrary, the retirement board, subject to the standards of subdivision 2a and chapter 356A, may transfer assets between accounts established by section 422A.06.

Subd. 2e. **Standing; parties.** In addition to other parties with claims under statute or the common law, the state and a political subdivision that helps to finance a plan have standing to sue on behalf of all taxpayers and the plan beneficiaries for an alleged breach of fiduciary duty. If a suit is brought by the state or a political subdivision under this subdivision, no separate suit regarding the same claims on behalf of taxpayers of the state or a political subdivision or of beneficiaries may be allowed, and any suit then pending on behalf of taxpayers of the state or a political subdivision or of beneficiaries must be dismissed unless the court determines that its dismissal would prejudice or limit the rights or claims of the taxpayers or beneficiaries. Nothing in this subdivision precludes suits by both the state and an affected political subdivision or suits by the retirement board on behalf of one or more of the funds.

Subd. 2f. **Attorney fees.** The court shall award reasonable attorney fees and costs of litigation, in addition to damages and other relief, in a suit where a breach of fiduciary duty is found under subdivision 2a or chapter 356A.

Subd. 3. [Repealed, 1981 c 298 s 12]

Subd. 4. [Repealed, 1980 c 607 art 16 s 19]

Subd. 5. **Payments; revolving fund.** All payments from the funds created by this chapter shall be signed by the treasurer, executive director, or other person appointed by the retirement board, and no payment shall be made except by order of the board duly entered in the record of its proceedings, except that the board may create a revolving fund in an amount as may be necessary to be used for the purpose of withdrawals from the fund of excess contributions; refunds to employees upon their separation from the service and for other purposes as may be determined by the board. The revolving fund shall be periodically reimbursed as set forth herein. It shall be subject to withdrawal upon check signed by the executive director, or other person appointed by the board.

Subd. 6. **Special funds.** The board may, in carrying out the provisions of this chapter, establish special funds supplementing individual contributions by the employees and to receive, invest, and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city.

Subd. 7. [Repealed, 1983 c 286 s 26]

Subd. 8. **Health insurance.** The retirement board may authorize the executive director or the executive director's designee to:

- (1) offer the beneficiaries of the fund the option of having their health insurance premiums deducted automatically from their monthly benefit amounts and paid to a designated insurer; and
- (2) provide beneficiaries information about available group health insurance plan options.

Beneficiaries who elect to avail themselves of this service are ultimately responsible for the timely payment of premiums and the payment of premiums in the proper amount.

History: 1973 c 133 s 5; 1980 c 607 art 16 s 6-11; 1981 c 298 s 4; 1981 c 306 s 2; 1983 c 286 s 18,19; 1983 c 291 s 4; 1989 c 319 art 8 s 19,20; 1990 c 426 art 1 s 47; 1991 c 206 s 4; 1991 c 345 art 4 s 6,7; 1993 c 307 art 10 s 1,2; 1994 c 604 art 2 s 4; 1995 c 262 art 2 s 9; 1Sp2005 c 8 art 10 s 80; 2007 c 134 art 8 s 2,9